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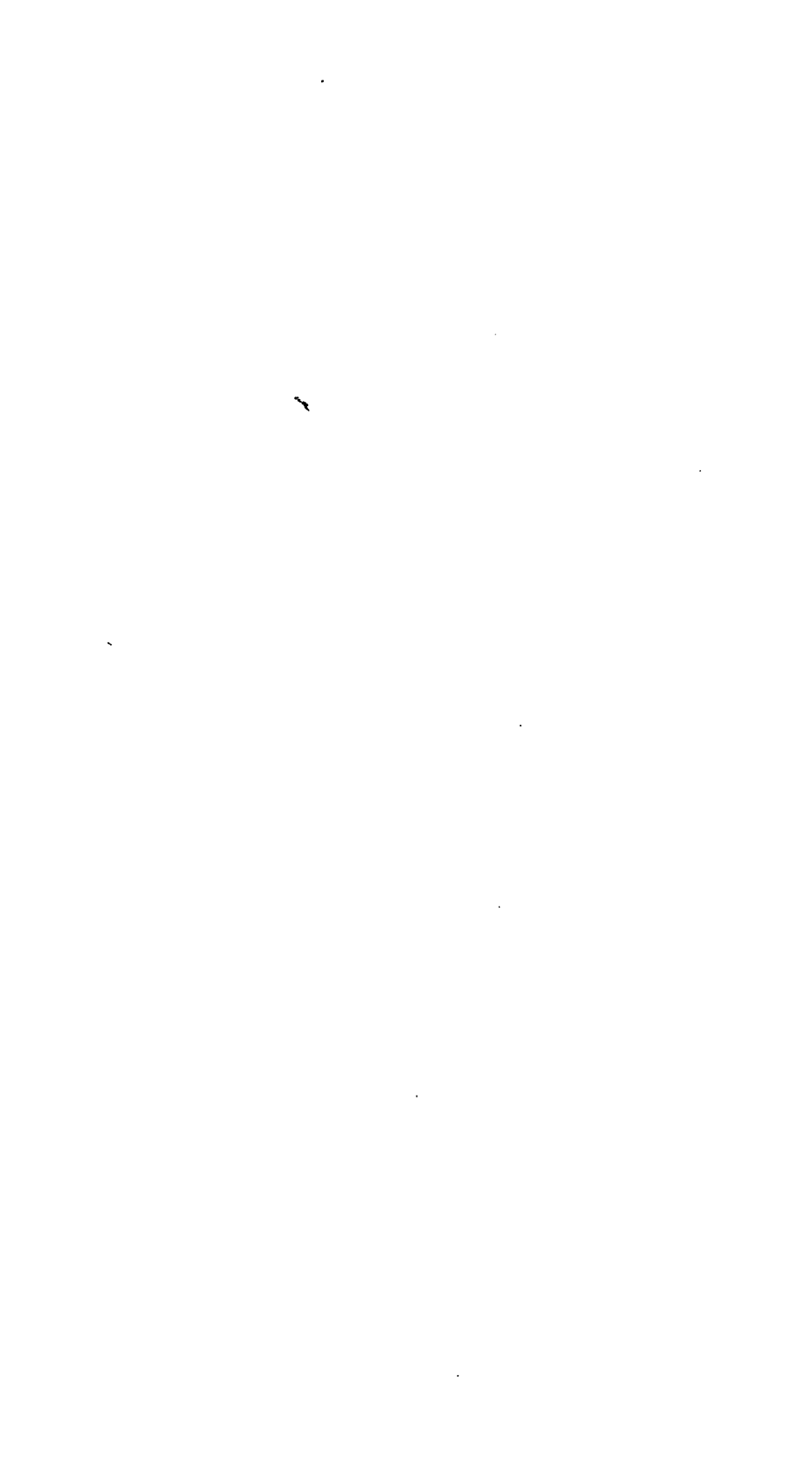
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New York state. Governors

THE

SPEECHES

OF THE

DIFFERENT GOVERNORS.

TO THE

Legislature of the State of New-York,

COMMENCING WITH THOSE OF

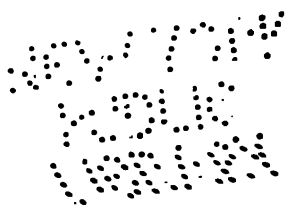
**GEORGE CLINTON, AND CONTINUED DOWN
TO THE PRESENT TIME.**



ALBANY:

PRINTED AND PUBLISHED, BY J. D. VAN STEENBERGH.

1825.



**Checked
May 1942**



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New York
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INTRODUCTION.



THIS publication was undertaken under an impression, that it would prove a useful manual to every citizen, who is interested in the welfare, character, happiness and grandeur of the State of New-York. The Speeches of the different Governors, subsequent to our emancipation from the yoke of Colonial servitude, are here collected, for the first time, and arranged with conformity to chronological correctness. A compilation like the present, has long been wanted ; as it was only by reference to the perishable publications of the day, or to the documents in the public offices, that we were enabled to obtain a knowledge of the contents of the executive communications to the successive Legislatures.

The different Speeches and Messages are here presented to the reader in a form which enables him, with little trouble, to obtain much useful information, and to form an acquaintance with the political history of the state: And with this guide before him, the statesman will be assisted in tracing the march of a wise people, and in observing the means, by which New-York has atchieved the greatness which has rendered her the most powerful member of the American confederacy.



GOVERNORS' SPEECHES.

A meeting of the Legislature of the State of New-York, was held at Kingston, September ninth, one thousand seven hundred and seventy-seven; when, after some preliminary proceedings, they adjourned to the following day; at which time they met the Governor at "the Court-Room," when he made the following

SPEECH:

GENTLEMEN OF THE SENATE, AND GENERAL ASSEMBLY,

The invasion of the state, on the northern and western frontiers, and the prospect of an attack by General Howe, on the fortresses in the highlands, obliged me to prorogue the legislature, and to deny myself the pleasure of seeing our free and happy constitution so early organized as I could have wished. This I was the more readily led to do, as well from the busy season of the year, as the confidence which the people justly reposed in the abilities and integrity of the gentlemen in whom the administration of government was then vested.

At present, by the kind interposition of Providence, the cloud which hung over us seems in a great measure dispelled, and we have reason to expect a happy issue to this campaign.

The good conduct and bravery of the garrison of Fort Schuyler, seconded by the intrepidity of the late gallant General Herkemer, and the militia of Tryon county, have entirely frustrated the designs of the enemy upon that part of the state; and obliged them, after the loss of a great part of their army, with the most of their baggage and artillery, disgracefully to abandon their enterprise.

The complete victory gained near Bennington, by the valour of the militia of New-Hampshire, Massachusetts Bay, and the north-eastern counties of this state, together with a small body of continental troops, we have reason to hope will check the progress of the enemy's arms, and secure our northern frontiers. I have, however, thought it proper, in order to strengthen the army commanded by Major-General Gates, and to repress the incursions of the savages to the westward, to embody part of the militia, and march them to the northward. I have also made a further draft, for the protection of the exposed inhabitants of the county of West

chester, and for the defence of the posts in the highlands ; which I have the pleasure of assuring you, are in so respectable a state of defence, as to promise us security against any attack on that quarter. This, together with the several obstructions in Hudson's river, has probably induced General Howe to alter his original plan, and to adopt another, which, from the vigilance of his excellency General Washington, and the spirit of the southern militia, we have reason to hope will prove equally abortive.

GENTLEMEN OF THE SENATE, AND GENERAL ASSEMBLY,

As the security of every free state must, under God, depend upon its internal strength, I take this early opportunity to recommend to you, as a matter of the utmost importance, a speedy revision of our militia laws, which having been drawn at the commencement of this controversy, are, from an alteration in circumstances, become inapplicable to our present situation.

The state of our finances, likewise, claims your serious attention. The want of an organized government, has hitherto rendered it impossible to make any provision for sinking the money, which the war obliged us to issue ; and we have thus accumulated a debt, which, if neglected, will not only prove burthensome to the state, but strike at the credit of our currency, which it behoves us so much to support.

You will easily perceive, gentlemen, from the long suspension of law, and the disorder incident thereto, the necessity of making proper provision for the support of government ; on the vigour and dignity of which, the tranquility of the state will, in a great measure, depend.

As the constitution has not prescribed the particular mode, in which elections are to be conducted, you will turn your attention to some law, for that very necessary purpose.

Without detaining you any longer at this time, I shall, gentlemen, in the course of the session, take occasion to lay before you such other matters as I conceive the necessities of the state require.

GENTLEMEN,

The late convention having, in their plan of government, manifested the most scrupulous attention to the freedom and happiness of the people, and by marking the line between the Executive, Legislative, and Judicial powers, wisely provided for the security of each ; it becomes our duty to second their endeavors ; And as our conduct will in some measure be a rule for those who are hereafter entrusted with the administration of government, let us remain within the several departments in which the constitution has placed us, and thereby preserve the same inviolate, and repay the trust reposed in us by our constituents, when they made us the guardians of their rights.

I do not urge this, gentlemen, because I conceive the caution necessary to you, but to shew the important light in which I see this

object ; and to convince you, (however unequal I may find myself to the task) that it shall always be my strenuous endeavour, on the one hand, to retain and exercise for the advantage of the people, the powers with which they have invested me ; on the other, carefully to avoid the invasion of those rights which the constitution has placed in other persons.

GEO. CLINTON.

Kingston, September 10, 1777.

Pursuant to a Proclamation of the Governor, dated the first of September, one thousand seven hundred and seventy eight, the Legislature met at Poughkeepsie, in Dutchess County, on the first of October following ; but the number of members present being insufficient to proceed to business, they adjourned from day to day, until the thirteenth day of October, when they met the Governor in the Senate Chamber, where he made the following

SPEECH :

GENTLEMEN OF THE SENATE AND ASSEMBLY,

The enemy, by the evacuation of Philadelphia, and their removal to the city of New-York, have again made this state the principal seat of war. I am happy, however, to inform you, that instead of effecting the conquest of the United States of America, their main army, after several fruitless campaigns, on their part barbarously and cruelly conducted, is at length, through the vigilance of his excellency General Washington, and the spirit and bravery of the troops under his command, confined to defensive operations only ; and there is the greatest reason to hope, that, with the blessing of a kind Providence, we shall be enabled speedily to bring the war to a happy conclusion, and perfectly establish our freedom and independence.

Our northern frontier has, this season, remained in a state of tranquility, and the inhabitants thereby been favored with an opportunity of recovering, in some measure, from the extreme distress to which they were reduced by the operations of the last campaign.

I am, at the same time, gentlemen, unhappy to inform you of the ravages committed on the western frontier, and the destruction and desolation of several valuable settlements in the counties of Tryon, Albany and Ulster, by the savages, in conjunction with the disaffected subjects of this and the neighboring states : On the first

appearance of hostilities in that quarter, I ordered into actual service a considerable part of the militia for the protection of the exposed inhabitants; but every exertion I have been able to make for their security, though burthensome to the militia, and very expensive to the public, has (owing to the extent of country to be guarded, against an enemy carrying on a desultory war) proved ineffectual.

The disaffection and turbulent conduct of many of the inhabitants of the northeastern district of this state, will claim your attention, and call for such measures as justice, the public good, and the honor of the state may demand.

GENTLEMEN OF THE LEGISLATURE,

As the terms for which the present delegates in congress and members of the Council of Appointment for this state, were elected, are expired, it will, of course, be your first business to proceed to the election of proper persons to fill those important offices.

The continued depreciation of the paper currency, is a circumstance of the most alarming nature. Temporary expedients, such as laws for the reduction of prices, though they may serve for a time to palliate, will, in the end, be found to increase the evil. The only effectual remedy is, that of reducing the quantity of circulating currency, by taxation; a measure which I would wish to recommend to your particular and early attention: For, exclusive of every other consideration, no time can be more proper than the present, for paying off our public debts by taxes, when the staple commodities of the state command the most advanced prices.

By the 35th section of our constitution, the laws of this state are necessarily become complicate; and, as every member of society is materially interested in the knowledge of the laws by which he is governed, I am induced to believe, a careful revision of the laws of this state, would be an acceptable service to your constituents, and attended with the most salutary effects.

In the course of the war, this state has frequently been charged by congress with the superintendence and management of various kinds of public business; in the prosecution of which, large disbursements have been occasionally made, and, notwithstanding the advances by congress, I am informed a very considerable balance remains due to this state; and, as new accounts are daily accruing, some proper and permanent mode, for the liquidation and settlement of the public accounts of this state, is become necessary.

You will readily perceive, from the nature of the service, it is not in my power to render you an account to any fixed period, of the expenditures made in the payment and subsistence of the militia, who have been employed on the frontiers: I have great reason to believe that they far exceed the sum allowed by the legislature for this purpose, and have therefore to recommend, that provision be made, not only for discharging the extra debts that may have been contracted for this service, but also, for enabling me to exe-

cute more effectual measures for the defence of the frontier settlements, against the depredations of a savage enemy in future.

GENTLEMEN,

There are many other matters worthy of the deliberation of the legislature, which, in the course of the session, I shall occasionally take proper opportunities of laying before you.

Your zeal for the public welfare, as well as the duty you owe to your constituents, will, I am persuaded, induce you to prosecute the business of the present session with that unanimity and firmness which become the representatives of a free and virtuous people; and the necessity there is (during the unsettled state of our public affairs) for your presence in the several counties in which you reside, will equally excite you to dispatch.

GEO. CLINTON.

Poughkeepsie, October 13, 1778.

The Governor by proclamation, dated the seventeenth day of July, one thousand seven hundred and seventy-nine, required the Legislature to meet at Kingston, in the county of Ulster, on the ninth day of August following. Several members met at the time appointed; but the number being insufficient to transact business, they continued to meet and adjourn from day to day, until the twenty-fourth day of August, when the Governor delivered this

SPEECH :

GENTLEMEN OF THE SENATE AND ASSEMBLY,

The meeting of the legislature, intended to have been held agreeable to their last adjournment, having been prevented by several of the members taking the field with the militia, the business of the session thereby remained unfinished; this, with the importance of several other matters I have now to lay before you, induced me to convene you at this early season, with a view to your dispatching those parts which require your immediate attention; and fixing, by your own adjournment, such future day as you shall judge most convenient, for completing what may be safely deferred.

With respect to the general condition of the state, it is my duty to inform you, that the enemy, frustrated in their late attempts to penetrate into the more interior parts of it, and encreasing in barbarity, as they diminish in strength, have, with circumstances of extreme cruelty, laid waste a considerable part of Westchester

county; which, from its situation, must unavoidably be exposed to the ravages of an enemy, who have the command of the waters; by which it is nearly encompassed.

Such part of the levies, destined for the protection of the northern and western frontier, as are raised, have been so disposed, as, with the militia, in a great measure, to afford security to the different settlements; which (if we except the irruption of the enemy at Minisink, at the time when the Guards, who had been stationed there, were withdrawn to assist in offensive operations) have, for the most part, remained undisturbed: And we have now reason to hope, from the movements of our western armies, that the inhabitants will not only enjoy tranquility in future, but that just vengeance will be taken on their savage enemy.

GENTLEMEN;

It is with pleasure I observe, that by the assiduity of the courts of justice, robberies and other offences against the public peace, notwithstanding the insidious arts of our enemies to encourage them, daily become less frequent.

I am sorry, at the same time, to inform you, that neither the justice and forbearance manifested in your late resolutions, relative to the disaffected subjects in the north-eastern counties of this state, nor the measures which congress have yet thought fit to adopt, have, in any degree, tended to quiet the disturbances in that part of the state. The papers which I shall leave with you, will convey every necessary information on that head, and evince the necessity of your taking immediate and decisive steps for the restoration of order and good government, and the protection of the faithful subjects of the state in those counties.

GENTLEMEN OF THE SENATE AND ASSEMBLY,

I now also submit to your consideration a letter from his Excellency General Washington, dated the 22d day of May last, and sundry resolutions of congress transmitted me in the recess of the legislature, particularly respecting the clothing and recruiting the continental regiments, and for defraying the expences of the current year, and supporting the credit of the paper money. As the enlistments of many of the men will expire in the course of the ensuing winter, the supplying their places will merit your early attention. The evils which we experience from the continued depreciation of our currency, the encouragement the enemy derive from this circumstance, and the danger which might attend a total loss of its credit, render it a subject of the first importance, and are alone sufficient to recommend it to your most serious deliberation. While the sense that your constituents loudly express of the necessity of applying some suitable remedy to this growing evil, give you the strongest assurances of their acquiescence in any plan, which their constitutional representatives, on a full and

impartial review of the general interest, as well as the relative situation of the state, shall think proper to adopt.

GENTLEMEN OF THE LEGISLATURE,

I shall, from time to time, during the session, digest and communicate to you such other matters as shall appear to me to require your attention. It is, under Divine Providence, on the wisdom and unanimity of the councils of America, at this juncture, that her happiness depends; and I have a confidence, that the same zeal to promote the common cause, for which the state hath hitherto been distinguished, will be equally conspicuous in your deliberations.

GEO. CLINTON.

Kingston, August 24, 1779.

The Legislature were convened by proclamation of the Governor, at Poughkeepsie, on the fourth day of September; at which time they met; but the number of members present being insufficient to proceed to business, they adjourned from day to day, until the seventh of the same month, when the Governor delivered the following

SPEECH :

GENTLEMEN OF THE SENATE AND ASSEMBLY,

It was with regret I found myself obliged to convene you so early in the season; the present emergencies, however, you will be sensible, rendered your meeting at this time indispensable.

The hearing before congress, relative to our eastern boundaries, is to commence early in the present month, and as the delegates for the time being, are the agents to manage the controversy on the part of this state, and the present delegation will soon expire, you will perceive the necessity of proceeding to an immediate election.

I am unhappy to inform you, that notwithstanding the provision made for the defence of our frontiers, a part of them has again been desolated by a merciless enemy. For a particular account of these devastations, I must refer you to the papers I now deliver you.—The force directed to be raised, by the legislature, for the frontier service, when compared with the extent of country to be guarded, and with what has since appeared, the strength of the enemy employed against it, you will discover to have been insufficient in the first instance, and it became less competent in consequence of deficiencies, and by enlistments into the continental battalions. Al-

lured by a generous bounty, the troops were easily induced to enter into other corps, where their time of service was prolonged only a few days ; and in which they were not exposed to greater hardships or danger. To prevent, as far as possible, a diminution of this force, I ventured, although unauthorised by law, to retain on the frontiers, part of the levies intended to reinforce the army ; which I trust, will receive your sanction ; and upon a representation of the situation of the country to the commander in chief, his excellency, from an earnest desire to preserve those valuable settlements, detached for their defence, part of the levies from the eastern states, and the whole brigade raised by this state, as a reinforcement to the army. This however, will be only a temporary relief, it being uncertain how long these troops will remain there : I must therefore recommend it to you, to provide against the contingency of their removal, which will certainly take place upon the expiration of the time limited for their service.

GENTLEMEN,

Notwithstanding the measures hitherto pursued, and although these states, through the indulgence of heaven, abound with provisions, the army has not as yet received seasonable and competent supplies. I now communicate to you letters from the committee of congress at head quarters, and the commander in chief, upon this interesting subject ; and recommend them to your most serious attention, with the fullest confidence, that nothing will be wanting on your part ; and, that as far as the ability of this state extends, no means will be left unessayed, to prevent the misfortunes which must inevitably result from a failure in the essential article of subsistence,

GENTLEMEN,

When we reflect upon the present situation of our public affairs, it is evident, our embarrassments in the prosecution of the war, are chiefly to be attributed to a defect of power in those who ought to exercise a supreme direction ; for while congress only recommend, and the different states deliberate upon the propriety of the recommendation, we cannot expect a union of force or council. From this conviction, I take the liberty of submitting, to you, whether further means ought not to be devised, for accelerating the proposed confederation, and thereby vesting congress with such authority, as that in all matters which relate to the war, their requisitions may be peremptory. It is with pleasure, I find this to have been the sentiment of a convention of committees from three states, lately held at Boston ; whose proceedings, at their request, I now lay before you.

Hitherto the war has been carried on without decisive advantages on either side, and although it might be presumed, that our enemies, unsupported by any ally, and with every other power at least unfavorable to their cause, would have been convinced of

their inability to withstand the United arms of France, Spain, and America ; and have withdrawn their armaments from our coasts, for the defence of their own : we find them, however, obstinately persevering in the vain hopes of conquest. It behoves us therefore, to preserve an unremitted zeal and spirit ; and especially to endeavor, by completing our continental battalions, to establish a permanent force, sufficient, with the divine blessing, to bring this contest to a speedy and successful issue. The generous aid from one, and the great exertions of both nations engaged in the war with us, ought to encourage and stimulate America to her utmost efforts.

GEORGE CLINTON.

Poughkeepsie, Sept. 7th, 1780.

The legislature convened at Poughkeepsie, pursuant to the proclamation of the Governor, on the first day of October, 1781, but as there was not a quorum of members present, they adjourned from time to time, until the 23d of the same month, when they met the governor in the Senate Chamber, where he made the following

SPEECH :

GENTLEMEN OF THE SENATE AND ASSEMBLY,

The electing of delegates and a council of appointment for the ensuing year, rendered the meeting of the legislature at this time, indispensable : by the confederation, a new congress is to convene on the first Monday in November in every year. You will therefore perceive the necessity of proceeding to the choice of members of this state, so early, as that the persons elected may have it in their power to attend in season, and prevent the inconveniences which might result from the want of a representation in congress.

The papers which I have now the honor to lay before you, relate to a variety of matters of the greatest moment. It is submitted to you to determine which of them require your immediate attention, and which may with safety and propriety, be deferred until the events of the campaign shall have fully unfolded themselves, and the legislature be thereby enabled to form a more competent judgment of the measures necessary to be adopted : I cannot however, omit recommending to your particular consideration, the letters from the superintendent of finance, and the demands on this state, for supposed deficiencies in the sums and specific supplies

required of us by congress Your deliberations on this subject, will naturally lead to the necessity and importance of a settlement of our public accounts, and a further and more effectual provision for the collection of the arrears of taxes heretofore directed to be levied; and as the fluctuating state of our paper currency, has hitherto conspired with the wishes of the disaffected, by making it their interest to delay the payment of their proportions. I submit to you the propriety of adopting measures to compel the payment of the deficiencies in money, at least equal in value to those taxes at the time they severally ought to have been paid. This appears to me to be dictated by policy, and warranted by justice, otherwise the burthen of the war, which ought to be equally borne, will principally fall upon the most zealous friends of their country.

I am happy in being able to inform you, that through the smiles of Heaven, on the spirit and activity of the troops stationed on the frontiers, those settlements, considering their great extent, and the mode of warfare pursued by the enemy, have sustained less injury this season, than we had reason to apprehend; and although we have recent intelligence which indicate an invasion of the northern parts of the state, yet I trust that the formidable detachments of regular troops and levies lately sent thither, will, with the aid of the militia, prove sufficient to frustrate the designs of the enemy, and protect the country against their ravages. It is my duty at the same time, to remind you, that as the term for which the levies, for the immediate defence of the state were raised, will soon expire, it will be requisite to make seasonable provision for its further defence; and for this purpose to suggest to you, the expediency of revising the law for raising troops on bounties of unappropriated lands, as I am encouraged by the officers engaged in these corps, to believe, if a further time was allowed to complete them, and a small additional pecuniary bounty granted, a number of valuable recruits could be procured, from the present levies.

GENTLEMEN,

The generous conduct of our illustrious ally, in sending to our assistance, at this interesting period, such powerful armaments as to give us a decided superiority over the common enemy, as well by sea as land; and enable us to commence operations against them of the most important nature, with flattering prospects of success, cannot fail affording the highest satisfaction to every true American, and demands our warmest gratitude.—Every consideration of interest and of duty, loudly calls upon these states for correspondent exertions, that by the blessing of divine Providence, upon our united efforts, we may bring the war to a speedy and honorable conclusion, and secure the inestimable objects for which we are contending.

GEO. CLINTON.

Poughkeepsie, October 23, 1781.

The Legislature met at Poughkeepsie, on the 3d day of July, 1782, pursuant to the proclamation of the Governor, but did not form a quorum for the transaction of business until the 11th, when they commenced proceedings with the following speech from the Governor.

SPEECH :

GENTLEMEN OF THE SENATE AND ASSEMBLY,

I have convened you at this time, at the request of a committee of congress, appointed to confer with you and the legislatures of the neighbouring states, on the necessity of providing competent means for a vigorous prosecution of the war. An application so respectable, and an occasion so important, rendered a compliance on my part, indispensable. I forbear to detail to you particularly, the subjects of this conference. They have been communicated to you by the committee, and I have confidence, will receive a suitable attention.

It is with great satisfaction I inform you of the birth of a Dauphin of France, which has been officially announced to me. Persuaded, that on this occasion, you will participate in the joy of a monarch, and a nation to whom we are bound by the strongest ties of gratitude and friendship. A nation who are now sharing with us in all the perils of a war, commenced and prosecuted on their part, from the generous motive of establishing the liberties and independence of these states.

In the present respite from the more severe distresses and calamities of the war, I cannot forbear suggesting to you, a work which I conceive ought not to be deferred, as the business of peace, the promotion and encouragement of learning. Besides the general advantages arising to society from liberal science, as restraining those rude passions which lead to vice and disorder, it is the peculiar duty of the government of a free state, where the highest employments are open to citizens of every rank, to endeavor, by the establishment of schools and seminaries, to diffuse that degree of literature which is necessary to the due discharge of public trusts. You must be sensible, that the war has occasioned a chasm in education, extremely injurious to the rising generation ; and this affords an additional consideration for extending our earliest care to their instruction.

GENTLEMEN,

Although the principles of our taxation (as far as they are calculated to compel the members of the community to contribute towards the public burthens, according to their respective abilities) are founded in justice, yet, from the great arrearages of tax which appears, from the returns on your files, to be due, I conclude there must be some defect in our system ; and I therefore submit

to the legislature, the necessity of revising the tax laws, and particularly with respect to the mode of collection.

I shall now leave with you, the several acts of congress and public letters, which have been transmitted to me since the close of the last session, together with such other papers as contain information respecting the condition of the state ; and should any other matters occur as objects requiring your deliberation at the present meeting, I will lay them before you by occasional messages. Before I dismiss you, however, I conceive it my duty to observe, that the enemy, notwithstanding their frequent disgraces and disappointments, discover a determination to persist in the war, and continue to cherish the delusive hope, if not of subduing, at least of detaching us from our great and benevolent ally ; and of forming such a political connection with us, as would be incompatible with our sovereignty. We are therefore called upon by every consideration of duty, and of interest, to bear the most solemn and explicit testimony, against a measure which would inevitably be attended with our ruin and infamy, and it especially behoves us at this time, with an humble dependence on divine aid, to make the most strenuous exertions for expelling the enemy from our country, and thereby remove every apprehension of danger, either of their force or artifice.

GEO. CLINTON.

Poughkeepsie, July 11th, 1782.

The Legislature were convened by proclamation of the Governor, at the City of New-York, at which place they assembled ; when after several adjournments, in consequence of a quorum of members not being present, they met the Governor in the Senate Chamber, on the twenty-first January, when he made the following

SPEECH :

GENTLEMEN OF THE SENATE AND ASSEMBLY,

It is not without much regret, that I have been prevented from assembling you at an earlier period. The dilatory movement of the British force, subsequent to the provisional articles, and the measures preparatory to the late elections, have deprived me of the pleasure of congratulating you more seasonably, on the great and important events which have taken place since the last sessions ; and they have deprived the state of your aid, in many affairs which earnestly demanded a legislative provision.

By the favor of Divine Providence, the seal is put to our independence, our liberties are established on the firmest basis, and freedom in this district seems to derive additional lustre from the objects which remind us of the despotism that so lately prevailed. While we recollect the general progress of a war which has been marked with cruelty and rapine; while we survey the ruins of this once flourishing city, and its vicinity; while we sympathise in the calamities which have reduced so many of our virtuous fellow-citizens to want and distress, and are anxiously solicitous for means to repair the wastes and misfortunes which we lament: how ought our hearts to overflow with love and gratitude to our adorable creator, through whose gracious interposition, bounds have been set, and probably forever, to such scenes of horror and devastation.

Permit me to number with the pleasing events, which call for our praise, the attention of those patriots, both citizens and soldiers, who have returned to this city, to the honor and dignity of government. By their obedience to the laws, and their care to preserve peace and good order, they have disappointed the wishes of our enemies, and convinced the world, by their moderation in prosperity and fortitude in adversity, that they merit the prize for which they have so nobly contended.

Viewing, as I trust you will, the blessings we now enjoy, as effects flowing from our union, you cannot but be attentive to every measure which has a tendency to cement it, and to give that energy to our national councils, which may be necessary to the general welfare. In this confidence I now lay before you, such acts of congress as have been received in the recess of the legislature. As the address of congress, which accompanies those acts, enters fully into the reasoning on the measures they recommend, I shall without enlarging, submit them to your serious consideration with this single remark; that though fear may support a despotism, and an hereditary nobility uphold the throne of a limited Monarch, nothing but good faith and public virtue, can give authority or credit to a free republic. These sentiments, and others highly worthy of the attention of a free people, are strongly enforced in the last circular letter of our patriotic and illustrious commander in chief. A performance which I communicate with very great satisfaction; confident that it is derived from so high an authority, is executed with such wisdom and perspicuity and enforced with such affectionate zeal for our national honor and interest, that it cannot fail of making deep impressions, and of meeting with the most respectful notice.

Among other national objects, which the papers I shall now deliver you, will point out for your consideration, are the arrears due to our fellow-citizens, whose arms have so essentially contributed to the independence and security we enjoy; and it is with pleasure I embrace this occasion, to do the line of this state the justice to observe, that from the moment of their being disbanded to this hour,

not one among themselves, to my knowledge, has been accused of misconduct, or a violation of the laws. Their wants have not forced them into the commission of injuries, nor have their arms rendered them forgetful that they were citizens. Such citizens have a double claim to your patronage and protection.

With the matters of superior moment, which at this time call for your serious examination, is an attempt of the British court, by a proclamation of July last, to monopolize to themselves, the trade of the United States, with the West-Indies, by restricting the importation of American produce into those Islands to British vessels only, and the exportation of West-India produce into these states, to vessels of the same description. It is exceedingly difficult to hold any intercourse with a nation that will not suffer her commerce with other states, to be governed by principles of equality and reciprocity ; but that such a spirit of monopoly should prevail in the seller, (for Britain as a commercial nation abounding in manufactures, is principally to be viewed in this light) and be arbitrarily held out to the buyer, who has his choice of markets, is as inconsistent with the interest of trade, as it must be odious and disgusting to those whom it is intended to ensnare or depress. Permit me to observe, that, one effect which the proclamation alluded to, has a tendency to produce, is that of throwing the trade, heretofore mutually carried on between the inhabitants of America and those of the West-Indies, into the hands of persons styling themselves, or acting among us, in the disguise of British subjects ; to the great dishonor of the American flag, the injury of the fair trader and real citizen, and the diminution and corruption of national character. There is considerable ground to apprehend, that the conduct of the British court, in this instance, is founded on a presumption that the confederated powers of the United States, is not adequate to prevent the innovation. It becomes therefore our interest and our duty, to undeceive them, and if the powers given by the confederation are not competent for this purpose, to enlarge them ; for it is obvious, that any partial exertions of the states, individually, to correct this evil, will prove ineffectual.

While I am on the subject of commerce, permit me gentlemen, to call your attention to the earliest and most effectual means for restoring and improving that of this state. Our ports, so long withheld from us, are at length open to all the world. Let us give, to all, protection, encouragement and security, by providing that equal justice be administered to the stranger as well as the citizen, that the recovery of debts be speedy and effectual, that the fulfilment of contracts be enforced, that our staples be so inspected as to prevent future imposition, and effectually to revive their reputation in foreign ports, where, for want of sufficient care, it has been greatly impaired. By these means, credit, the parent of commerce, will multiply her benefits, and security from imposi-

tions add to the value of our commodities ; while the stranger it invites, will reduce the price of those we get from abroad.

The establishment of productive funds for the discharge of the interest, and for sinking, as soon as may be practicable, the principal of the public debts, is an object of so much moment, and which so essentially involves the prosperity of our citizens and the honor of government, that it cannot fail of claiming the most attentive consideration. Among the means that present themselves, for making this provision, beyond direct taxation, are the disposition of public lands, internal duties and excises, marine passes, and a duty on sales at vendue. The land office will, I flatter myself, be so regulated, as while it is rendered an object of revenue, it will at the same time, afford the utmost encouragement to the speedy settlement of the country. The cultivation of our lands ought to be one of our first cares, since the riches of a state is to be found in the number of its people. In this view, perhaps it may not be improper to invite the strangers to partake of the political blessings which we so happily enjoy, by facilitating the means of naturalization, and of obtaining and inheriting a portion of the unappropriated lands.

It is my duty to recommend to your early consideration, such a provision for the support of the officers of government, as is consistent with its dignity, and will tend to procure, or continue in public office, men of integrity and abilities, now that a field is open for the display of talents and industry ; and they have a prospect of advancing themselves and their families in private life. It is an undeniable truth, that in republics, where the force of government depends on a respect for the magistracy, ignorant or vicious magistrates must soon bring the laws into contempt, and involve the ruin of the state,

Neglect of the education of youth, is among the evils consequent on war—perhaps there is scarce any thing more worthy your attention, than the revival and encouragement of Seminaries of learning ; and nothing by which we can more satisfactorily express our gratitude to the supreme being, for his past favors ; since piety and virtue are generally the offspring of an enlightened understanding.

Permit me, gentlemen, to mention the necessity of proceeding to the immediate election of members to compose a council of appointment ; as for want of this board, great inconveniencies have already arisen in this district of the state ; which, from its peculiar situation, is destitute of the necessary officers of government. I would also remind you, that we have been for some time, unrepresented in congress with a view that early measures may be taken for the appointment of delegates. I need not observe, that there are few objects in which the honor and safety of the United States, and of each particular state is more interested, than in the character of the members of the great national council.

A revision of the laws, passed during the war, in order to conform them to our present situation, the organization of the militia, and such provision for magazines and military stores, as are necessary, as well for our own defence and security, as a due compliance with the terms of our constitution and the confederation, will I trust also in the course of the session, engage your attention.

The settlement of the accounts between this state and its citizens, and the United States, has been most unfortunately protracted. The reasons which have exposed us to this great public inconvenience, are explained by my correspondence with the delegates and the superintendent of finance on this subject, which is presented for your information. A gentleman has at length undertaken the office of commissioner of accounts for this state, and will proceed to the execution of his trust without delay.

You will perceive from the communications which relate to the subject that I have not been inattentive to the circumstances of the western posts within this state. They are undoubtedly of great importance for the protection of our trade, and our frontier settlements; and it was with concern, I learnt that the propositions made by the state for garrisoning those posts, were not acceded to by congress. It afforded me, however, some satisfaction, to find that the commander in chief was in pursuit of measures for that purpose. But my expectations proved fruitless. The British commander in that department, treating the provisional articles, as a suspension of hostilities only, declined to withdraw his garrisons, and refused even to permit us to visit those posts. It is necessary for me to add, that it will now be impracticable to take possession of them until spring; and that I have no reason to believe, that congress have or are likely to make any provision for the expense which will necessarily incur: It therefore remains for you to take this interesting subject into your further consideration.

GENTLEMEN,

Without detaining you any longer, I shall now leave with you my correspondence with Sir Guy Carleton; the proceedings of the council constituted for the temporary government of the Southern District, and other papers necessary for your information; and in the course of the session, I shall lay before you the accounts of my receipts and expenditures, and from time to time, communicate by message, such other matters as may require your attention. From the wisdom and magnanimity, which the legislature hath uniformly manifested in every stage of the late arduous conflict, I have the highest confidence, that your present deliberations will be conducted with harmony, be influenced by a steady attention to the public good, and be productive of the most extensive and essential advantages to our country.

GEO. CLINTON.

New-York, January 21, 1784.

On Monday the 17th instant, the members of the Senate and Assembly met in the City-Hall, of the City of New-York, and on the following day, the Governor delivered this

SPEECH :

GENTLEMEN OF THE SENATE AND ASSEMBLY,

SINCE the close of the last session, the legislature of the state of Massachusetts have thought fit to set up a claim to lands, which it is to be inferred, from their petition to the honorable the United States in congress, lie somewhere within the ancient jurisdiction of this state, but in what part or to what extent is left in obscurity. They have, notwithstanding, requested that a federal court may be appointed for enquiring into, and determining such claim ; and congress have accordingly assigned the first Monday in December next, for the appearance of both states, and such other proceedings as are directed by the articles of confederation and perpetual union. From the act of congress of the 3d day of June last, on this subject, and the papers accompanying it, you will perceive the necessity of appointing agents to manage the controversy on the part of this state ; and of calling for an explicit description of the lands claimed by the Massachusetts, without which, we must be exposed, in our defence, to unnecessary difficulties and expense. The importance of these measures and the election of delegates and of members to compose a council of appointment for the ensuing year, were the principal inducements to your being assembled at a season which I am sensible must be inconvenient.

The acts of congress of 27th 28th and 29th of April, respecting the arrears of interest of the national debt, and the expenses for the year 1784 and a requisition of money to discharge the same, and another act of the third of June, recommending it to this and some other of the states, to raise a proportion of their militia for taking possession of the western posts, guarding the public stores, and protecting the treaties with the Indians (all which are now laid before you) came to my hands sometime after the last adjournment. It appeared to me impracticable, after near six months had been spent by the legislature in public business without any intermission, to have convened you at an earlier period, and it was the less necessary, as before the recommendation for raising these troops, was communicated to me, it had been discovered, that there was not the least probability they could this season be employed in the principal service for which they were intended. These different subjects are now submitted to your deliberate consideration, and I am persuaded, the result will be dictated by a regard to the sacred rules of justice, to the honor of the state, and to the principles of the federal compact.

GENTLEMEN,

The injury which this state sustains in its growth and settlement by the claims of absentees and aliens, to large tracts of uncultivated lands, call for your attention. These claimants contribute nothing to the exigencies of government ; they retard the progress of improvement while their estates continue to increase in value by the labor and industry of the citizens who settle and cultivate the adjacent lands. Your wisdom will undoubtedly suggest some remedy consistent with the treaty, and the principles of equity, for a mischief which becomes daily more obviously detrimental.

I need not mention that the legislature have long since seen the necessity of an estimate of the value of taxable property throughout the state : But the measures which they adopted for this purpose, have hitherto proved ineffectual : without it, government cannot be administered on wise and fixed principles ; for it neither can be known to what amount the whole state may be taxed without oppression, nor what is the comparative value of the wealth of the respective counties and districts, however essential to equal taxation, and for preventing those discords and animosities which too frequently take place in fixing of the quotas.

The management of the public revenue also wants system : there is no mode established for drawing the income, expenditures or debts of the state to a point ; nor is it in the power of the best informed, at present, to produce a tolerable estimate of them, though it must be admitted that this is a branch of information so useful, that it cannot, without manifest inconvenience, be dispensed with.

A revision of our laws is also necessary to digest them in one code, which shall include such of the acts of the late colony, and of the British statutes as are adopted by the constitution ; and to form a general regulation for highways, and the internal oeconomy of districts and precincts, now continually calling for partial provision, is a work I would recommend as highly worthy of the consideration of the legislature.

It is found by experience that some of the laws of the last session, particularly the act establishing an university in this state, and the impost act, require amendment, as well to render them more easy in their execution, as more effectual in their operation. The officers acting immediately under them, are directed to state, for your information, the defects which have been discovered.

Several other matters which I had the honor to lay before the legislature, at the opening of the last session, were not (for want of time) brought to maturity, and particularly a law for regulating the militia and providing for magazines and arsenals agreeable to our constitution and the confederation. These are of such importance to the honor and safety of the state, that I cannot omit repeating them.

I shall now leave with you such papers as I have received during the recess, and which may be necessary for your information, among

these are the proceedings of the commissioners of Indian affairs, containing a particular detail of their transactions, and the result of the business committed to them.

GENTLEMEN,

Although I have thought it my duty, at the opening of a session, to point out the various matters which appeared to me to claim the attention of the legislature, yet should it be found inconvenient to the members to continue long together at this time, and if there only, may be taken into immediate consideration, it cannot with safety, be delayed until the next meeting.

GEORGE CLINTON

City of New-York, October 11, 1794.

The Governor by proclamation summoned the legislature of the city of New-York, on the 24th day of January, 1795, and the members accordingly met on that day, and a sufficient number of them proceeded to business and afterwards they adjourned from day to day until the 16th of the same month, when they met in the Assembly Chamber where it made its adjournment.

SPEECH

GENTLEMEN OF THE SENATE AND OF THE ASSEMBLY

The nature of the adjournment of the legislature at the last session, obliged me to convene you in a place where I have a power which cannot, consistently with the constitution, be exercised, but on "extraordinary occasions" and although the subjects which call for your attention are of great importance, it may be doubted whether they be not so far removed from the constitution, that I have no authority in that respect to exercise an authority in that respect. I have given the legislature an opportunity of exercising a power which is not for the dispatch of business, and I have no authority to exercise it. Permit me, therefore, to suggest the propriety of a private meeting, holding your annual and ordinary sessions in a place which will prevent the interference of the executive in a high and important manner in the senate and assembly. It being in this case, that I have met, I was governed, as well by a regard to the public convenience, as to the public interest, and I have no doubt, but that I shall at least interfere with your private engagements, and I have no doubt, but that I shall probably prevent the trouble and expense of a journey to the place, I should have desired myself, to have been in the place.

I had assembled you at any other than the repository of your public records and archives, to which, in the course of your deliberations, there must be frequent occasion to recur.

GENTLEMEN,

It affords me the most sensible pleasure to observe, that nothing hath happened since the close of the last session to disturb the public tranquility ; that good order, obedience to the laws, and the due administration of justice, have generally prevailed ; that the different districts of the state by the industry of the citizens, are rapidly recovering from the waste and desolation of war ; and that the toils of the husbandman have been amply rewarded by a fruitful season, and a plentiful harvest. For these among other distinguished blessings, unfeigned gratitude is due to our bountiful Creator. It must, however, excite disagreeable reflections, when I inform you, that the British government, in manifest violation of the treaty, continues to retain, by an armed force, the different posts in the northern and western frontiers of the state, and thereby, in an essential degree, cramps our commerce, and obstructs the progress of our settlements ; although it is my duty to mention this circumstance to you, I am sensible it is in our federal capacity that a remedy must be provided for an aggression so detrimental to our prosperity.

GENTLEMEN,

After the annual appointments to be made by the senate and assembly, the requisitions of the United States in congress assembled, contained in their acts of the 27th of September, and 12th of October last, demand your first attention. To assist you in your deliberations on these important subjects, I refer you to the letters from the commissioners of the treasury board, with their returns and estimates explanatory of the principles on which these requisitions are founded. Relying on your zeal for the federal interest, I have the fullest confidence, that every measure calculated to support our national credit, and warranted by the confederation, will meet your cheerful concurrence. When we reflect, that, under divine Providence, it is to the early and steady exertions of the public creditors, by their loans, their labors, and their military services, that we are indebted for our liberty and independence ; it is greatly to be regretted that the peculiar circumstances of the state have hitherto prevented the adoption of more effectual measures for their relief. Our resources, if equally and judiciously drawn forth, and economically applied, will, I trust, be found competent ; and as the impediments which stood in the way of this necessary business, are now in a great measure removed by the return of peace, and the arrangements which have since taken place, a regard to justice, as well as the consideration of its being essential to public credit in future, that past engagements be faithfully fulfilled, will, I am persuaded, prevent a farther delay. To enable you to

engage in this important service with the greater prospect of success, I shall cause to be laid before you, estimates, as well of the amount of the debts due from the public, to the citizens of this state, as of the means that may be applied, towards discharging them without the aid of burthensome taxes.

While we are pursuing agriculture, as our first object, commerce and manufactures also deserve our attention. To the one, the husbandman is indebted for the generous prices he now receives for his produce, and by the other, our wants from abroad may be diminished. These considerations alone are sufficient to recommend them to your notice.

The great consumption of the productions of India; and the advanced prices at which we are supplied by other nations, render an immediate intercourse with that country a desirable object. I therefore submit to the wisdom of the legislature, whether the laudable and enterprising spirit of our merchants, adventuring in that commerce, ought not to meet with particular encouragement, and some legislative provision be made to prevent the waste and preserve the credit and reputation, of an article, the produce of this state, peculiarly advantageous as a remittance to that country.

The dangers which we so lately experienced, by a dependence on foreign supplies of iron and gun powder, ought to awaken our prudence, and put us on our guard against events however distant and unforeseen. Our country abounds with materials for carrying on these manufactures to the utmost extent, and we must discover a want of policy and vigilance, highly inexcusable, if we neglect obvious advantages which providence hath so kindly placed within our reach.

GENTLEMEN,

Several matters, heretofore submitted to the consideration of the legislature, remain unfinished; among these, the organization of the militia, the establishment of magazines, and a provision for holding elections, are objects highly important in themselves, and it is my duty to add, that they are expressly enjoined upon the legislature by the constitution. A bill originated last session for a revision and digest of our laws, but for want of time it was not enacted: This appears to me a measure of too much magnitude not to be resumed; for, besides their obscurity, arising from the circumstance of the revolution, it is highly unbecoming that we should be obliged to search through the mass of British statutes for such as extend to us by the constitution. I am sensible that a correct and judicious digest of our written laws will be an arduous task; but when the dignity of our government, and the ease and security of the people require it, no reasonable pains or expense ought to be spared for its speedy accomplishment.

GENTLEMEN,

Without enlarging at this time, I shall now deliver to you the different acts of congress, and other papers necessary for your information, reserving whatever else may appear to merit your attention, to be communicated in the course of the session, by message, and conclude with only adding that as the security of property forms one of the strongest bonds of society, too much care cannot be taken to preserve and strengthen it, by a scrupulous adherence to the principles and spirit of our excellent constitution ; and by guarding against an increase of our laws by provisions for partial purposes.

GEO. CLINTON.

New-York, January 16, 1786.

Pursuant to a law of the state, entitled "an act to regulate the future meetings of the Legislature,"—passed the 13th day of March, 1786, fixing on the first Monday in January, for the anniversary meeting of the Legislature, several of the members met at the time appointed, and for want of a sufficient number to proceed to business, continued to meet and to adjourn from day to day, until the 13th day of January, when after having organized both houses, they met the Governor in the Senate Chamber, where he made this

SPEECH :

GENTLEMEN OF THE SENATE AND ASSEMBLY;

As you are now assembled in pursuance of the law, for fixing the stated meetings of the legislature ; the annual appointments to be made by the senate and assembly, will, of course be your first business.

GENTLEMEN,

Of the different important matters which will, at this time, call for your consideration, the requisition of the United States in congress assembled, contained in their act of the second of August last, for the services of that year, merits your earliest, and most serious attention : Persuaded that your dispositions are truly federal, arguments would be unnecessary to induce a speedy and effectual compliance with a measure so essential to the support of our national honor and credit. It is sufficient to observe in the words of the Requisition, that " It is made in virtue of the powers of the confederation, and is obligatory on the states as such."

The acts of the 20th and 21st of October, for augmenting the troops in the service of the United States, with an additional requisition for their pay and support, also claim your early notice.

It will appear by the papers from the treasury board accompanying these acts, that there are some arrears stated as due on former requisitions, for the discharge of which it is equally the duty of the state to provide.

The resolutions of the United States in congress assembled, of the 11th and 23d of August last, expressing their sense of our act of last session, for granting to them an Impost, and requesting on that occasion an immediate call of the legislature, will again present to your view the revenue system, recommended by that honorable body, on the 18th of April, 1783.

I shall forbear making any remarks on a subject which hath been so repeatedly submitted to the consideration of the legislature, and must be well understood. You will receive with these resolutions the correspondence they produced ; and I have only to add, that a regard to our excellent constitution, and an anxiety to preserve unimpaired the right of free deliberation on matters not stipulated by the confederation, restrained me from convening you at an earlier period.

GENTLEMEN,

I have the pleasure to inform you, that the law passed at the last session of the legislature, vesting commissioners with discretionary power, to determine the controversy between this state and the commonwealth of Massachusetts, otherwise than by a federal court, hath been carried into full effect ; all interfering claims, both with respect to territory and jurisdiction, being finally adjusted. The mutual agreement and act of session executed with the usual solemnities by the commissioners of both states, is now laid before you ; and I have the fullest confidence that the conduct of your commissioners in a mission equally difficult and important, will meet with your entire approbation ; and that adequate provision will be made for the services and expenses which have arisen in laborious preparations for the trial, as well as in the final extinguishment of the contest.

I have also the satisfaction to lay before you a joint report, and an authenticated map of the commissioners for running the line of jurisdiction between this state and the commonwealth of Pennsylvania, in which as great progress hath been made as the season permitted. To the good understanding which subsisted between the gentlemen to whom this trust was committed by the respective states is in a great degree to be ascribed the economy in point of expense, with which you will find it to have been conducted.

While through the divine goodness we enjoy the estimable blessing of internal peace and good order, it must afford the most solid satisfaction that the animosities and disadvantages to which we have been exposed by a controverted jurisdiction, are at length

decisively terminated ; the public tranquility in a point of such magnitude effectually established and secured, and the heavy additional expense which must have attended a judicial enquiry, at the same time prevented.

The arrangement of the militia, under the late law (a work which required a considerable share of time and attention) is also nearly completed : and it is with pleasure I mention, that from the spirit and military ardor which appears to pervade that respectable class of citizens, the most flattering expectations may be formed of their future conduct and services.

GENTLEMEN,

The fatal ravages to which wheat, our staple commodity, hath since the commencement of the late war been exposed, by an insect until that period unknown on this continent ; the rapid progress of this evil, and the prospect of its overspreading the country, are alarming circumstances. If experience hath pointed out any remedies, I submit it to you, whether it would not be wise to direct them to be communicated to the husbandmen at the public expense.—Indeed it appears to me, that nothing in the power of the legislature should be omitted to avert a calamity which threatens such general distress. It must afford you pleasure to learn that very considerable reductions have lately been made of the debts due from the public, to the citizens of this state, but although there is reason to believe that the measures adopted for this purpose, when carried fully into execution, will be found to answer the expectations which were formed of them, yet it will appear from the estimates remaining on your files, that it is still necessary to make farther provision for this important service.—I have the highest confidence that your zeal for the public interest, will induce you to enter on this business in due season, and with a suitable spirit : and that your wisdom will direct to such means as will prove most efficient, and at the same time least burthensome. Permit me only to observe, that it is by a faithful performance of our engagements, that public credit, on which the prosperity of the state so much depends, can be established on a firm and permanent basis.

GENTLEMEN,

I shall now leave with you the different papers in my possession, necessary for your information, and in the course of the session, occasionally communicate, by message, such other matters as may appear to deserve your notice.

GEO. CLINTON.

New-York, January 13th, 1787.

The Legislature met at the time designated by act. but were unable to form a quorum of members until the 11th of January, when after organizing, the Senate and Assembly passed on the Governor who made this

SPEECH:

GENTLEMEN OF THE SENATE AND ASSEMBLY,

It being essential to the welfare of our confederacy that a representation in the national council should be maintained without intermission; and as the term for which the delegates from this state were elected is expired, you will perceive the necessity of proceeding to an immediate new appointment.

GENTLEMEN,

The requisition for the federal services of the current year, also claims your early attention. I have full confidence that the same spirit which has invariably influenced the legislature of this state, will induce you to a cheerful and effectual compliance with every measure, founded on the national compact, and necessary to the honor and prosperity of the union.

It will appear from the act of congress, and other papers on this subject, that the supplies, required for the common treasury, are principally to arise from the arrears due on former requisitions. Advantages will therefore result from the punctuality of past payments, as a greater proportion of the resources of the state may now be applied to the relief of our own citizens. To assist you in making the necessary arrangements, I shall cause to be laid before you, estimates of the public debt with the receipts and expenditures since the conclusion of the war, abstracted from the treasurer's annual audited accounts, by which you will be particularly informed of the present state of our treasury.

It gives me great pleasure to inform you that the jurisdiction line between the commonwealth of Massachusetts and this state, which has been so long a subject of controversy, and attended with much inconvenience and distress to the borderers, is at length finally adjusted; and that the boundary line between this state and the commonwealth of Pennsylvania, is also completed. The reports of the commissioners employed in these respective transactions, accompanied with maps of the lines will be delivered to you in order that the proper directions may be given for their authentication and deposit, and for the final liquidation and settlement of the expenses which have attended these services.

I shall leave with you the several official communications which have been made to me in the recess; with these you will receive the proceedings of the general convention lately held in the city of Philadelphia, and an act of the United States in congress for their transmission to the legislatures of the different states. From

the nature of my office you will easily perceive it would be improper for me to have any other agency in this business than that of laying the papers respecting it before you for your information.

GENTLEMEN,

It must afford the highest satisfaction to observe, that under the blessing of Heaven, tranquility and good order continue to prevail throughout the state, and that by the industry of the citizens, the country is in a great measure recovered from the wastes and injuries of war. The profuse use, however, of luxuries brought from abroad, drains us of our wealth, and is the source from which most of our present difficulties proceed. I would, therefore, submit to the wisdom of the legislature, the propriety of limiting the consumption of foreign articles, by encouraging the manufacture of our own productions, as far as may be consistent with our situations and a due regard to beneficial commerce.

GEO. CLINTON.

Poughkeepsie, Jan. 11th, 1788.

In pursuance of a Proclamation of the Governor, the Legislature met at the city of Albany, on the eleventh day of December, when the Governor made the following

SPEECH :

GENTLEMEN OF THE SENATE AND ASSEMBLY,

I was induced to convene you at this time, that I might have a seasonable opportunity of laying before you the proceedings of the convention of this state, lately held at Poughkeepsie, and the ordinance of congress for putting into operation the constitution of the United States, which was adopted by that convention.

While I submit this important subject to the legislature, it is my duty to call your particular attention to the amendments proposed by our convention, to this new system of general government. It will appear from the instrument of ratification, that a declaration of rights with certain explanations are inserted in order to remove doubtful constructions, and to guard against an undue and improper administration ; and that it was assented to on the express confidence, that the exercise of different powers would be suspended, until it should undergo a revision by a general convention of the states. You will also perceive by the circular letter addressed to our sister states, that several articles of it appeared so exceptionable to a majority of the convention, that nothing short of the

fullest confidence of obtaining such a revision, could have prevailed upon a sufficient number to have ratified it, without stipulating for previous amendments; and that all united in opinion, that a speedy revisal of the system would be necessary to recommend it to the approbation and support of a numerous body of our constituents, and to allay the apprehensions and discontents which the exceptionable articles of it had occasioned. These considerations, and a conviction of the truth of the observation, "that no government, however constructed, can operate well, unless it possesses the confidence and good will of the great body of the people," will, I am persuaded, be sufficient to engage your best endeavors for effecting a measure so earnestly recommended by the convention, and anxiously desired by your constituents.

GENTLEMEN,

In conformity to the law passed the last session, appointing commissioners to hold treaties with the Indians residing within this state, I now deliver to you a report of their proceedings, containing copies of treaties entered into with the Oneida and Onondaga nations. I flatter myself that these transactions, in which not only the peace and prosperity of the state, but the welfare of the Indians were consulted, will merit the approbation of the legislature; and that such provision will be made, as shall appear to be necessary for a faithful observance of those treaties. An account of the expenses attending this service shall be laid before you, as as soon as it can be arranged and adjusted; and when you consider the embarrassments which occurred in the course of these negotiations, and the magnitude of the objects which have been accomplished, I trust you will be of opinion that the strictest economy hath been observed.

GENTLEMEN OF THE SENATE AND ASSEMBLY,

I shall leave with you the requisition of the United States in congress for the federal services of the current year, together with such other communications relative to the general concerns of the Union, as have been made to me in the recess. I have also directed the necessary returns and estimates from our treasury, and other public offices, to be laid before you to assist you in your deliberations on the means of reducing the debt of the state, and supporting and advancing its credit: a business which you will readily agree is of the first importance to the weal and honor of the state.

GENTLEMEN,

When I reflect on the great change which is soon to take place in the general government, and the influence it may have on the police and revenues of the state, I am sensible it will be a difficult task to determine on the measures most proper to be pursued at

this time ; but I have confidence in your wisdom, and that all your decisions will be influenced by a regard for the interests of your constituents.

Permit me only to observe, that in whatever situation we may be placed, a steady attention to the promotion of agriculture and the introduction and encouragement of the useful arts, are essential to the prosperity of our country ; for it is from these alone we are to derive our principal resources for profitable commerce ; and it is with the blessings of Heaven, by industry and frugality, as well as by the justice and stability of our laws, that we can expect to ensure respectability abroad, or happiness at home.

GEO. CLINTON.

Albany, Dec. 11th, 1788.

The Legislature were convened by proclamation of the Governor, at the city of Albany, in the month of July, for the purpose of choosing Senators to represent the state in congress, when he delivered the following

SPEECH :

GENTLEMEN OF THE SENATE AND ASSEMBLY,

I conceived it to be my duty to convene you at this early period, that the legislature might again have an opportunity of choosing senators to represent this state in the congress of the United States ; I flatter myself that an occasion so important and interesting will command an approbation of the measure. I am sensible, however, that should your session be protracted at this season, it would be injurious as well as inconvenient to many of the members ; impressed with this idea, and as nothing extraordinary hath taken place in the recess, I shall not attempt to call your attention to any other object. Our circumstances require unremitting industry and the strictest economy ; and I have a confidence that this consideration alone will be a sufficient motive with you to give as much dispatch to the public business as may be consistent with safety.

GENTLEMEN,

Whilst the distresses experienced by the failure of the last years crops, particularly in the exterior settlements, and by the poorer class of people, are contemplated with anxiety, the unmerited favors daily conferred on us by Almighty God, and especially the kind interposition of his Divine Providence, in so ordering the

seasons as to afford a prospect of relief from the approaching harvest, cannot fail to inspire us with sentiments of unfeigned gratitude and thankfulness.

GEO. CLINTON.

Albany, July 6th, 1789.

The Legislature met pursuant to law, when the Governor delivered the following

SPEECH :

GENTLEMEN OF THE SENATE AND ASSEMBLY,

In performing the duty enjoined on me by the constitution, it gives me the greatest pleasure to inform you, that the state is in perfect tranquility : A peaceable submission to the laws, and a becoming respect to the authority of government, generally prevail. The militia continue to discharge the duties required of them with an honorable degree of punctuality, and to enhance their usefulness and respectability, by their progress in military knowledge and discipline.

In the recess of the legislature, an amicable adjustment with the Indians, residing within our territory, has been effected ; and every cause of uneasiness being removed, they now profess sentiments of friendship and attachment : humanity and the honor of the state require that ample justice should be dispensed to them, and I have the fullest confidence, that adequate provision will be made for the regular discharge of the annual sums stipulated by treaty.

Our frontier settlements, freed from apprehensions of danger, are rapidly encreasing and must soon yield extensive resources for profitable commerce ; this consideration forcibly recommends the policy of continuing to facilitate the means of communication with them, as well to strengthen the bands of society, as to prevent the produce of those fertile districts from being diverted to other markets.

As a faithful performance of engagements is an indispensable duty, whether considered in a moral or political view, I am persuaded that no arguments are necessary to ensure a due attention to the rights of the creditors of the state, and the adoption of effectual measures for the maintenance of public faith. I have directed such returns and estimates from the treasury to be laid before you, as may be necessary for your information ; and flatter myself that, by wise and judicious arrangements, this important object may be accomplished without imposing any new burthens on our constituents.

The establishment of a permanent system of ways and means for the support of government, has already been submitted to the consideration of the legislature ; and from an opinion that the measure would be salutary, particularly in its tendency to diminish the public expense, I have again thought proper to suggest it.

Provisions having been made at the last session for taking a census of the electors and inhabitants of the state, it now remains with you to apportion the future representation in the legislature, agreeably to the rule prescribed by the constitution.

The promotion of manufactures is at all times highly worthy the attention of government ; but under the present system of our national affairs, obvious and cogent reasons exist, for affording ours such encouragement, as to place them in as thriving and respectable a condition as those of our sister states. Essays have lately been made to manufacture sugar from the juice of the maple tree, attended with success hitherto unknown. Our extensive forests abound with trees of that species, and the season for this business will admit of attention to it without essentially interfering with ordinary pursuits : considering therefore, these favorable circumstances, and our large expenditures for that article in foreign countries ; it is submitted to the legislature, whether a degree of public encouragement might not be advantageously extended to that object.

While we contemplate with pleasure the growing habits of industry and frugality in the different classes of citizens, and the prosperous condition of our agriculture and commerce ; our devout acknowledgements are due to a beneficent Providence, for all the blessings we enjoy, and particularly for having rewarded the toils of the husbandman with plentiful harvests.

GENTLEMEN,

I shall now cause to be delivered to you, the acts of the United States in congress ; the reports of the different board of commissioners acting under the authority of the state, and other official communications made to me in the recess ; and without detaining you any longer at this time, I shall occasionally transmit by message, such other matters as may require your attention.

GEO. CLINTON.

New-York, January 5th, 1791.

The Legislature met, pursuant to law, at the city of New-York, on the fifth day of January, when the Governor made the following

SPEECH:

GENTLEMEN OF THE SENATE AND ASSEMBLY,

Although it gives me the highest pleasure to inform you that the same tranquility and good order, which, under the blessings of Heaven, have so eminently distinguished this state, generally prevail, yet I sincerely lament the necessity of mentioning, that a daring outrage has been lately committed against the laws and authority of government, in the murder of the Sheriff of Columbia county, by a number of armed men in disguise. The documents which will be presented to you, will furnish every necessary information. I forbear therefore, to enter into a detail of the circumstances which attended that unhappy affair. It is my duty, however, to express on this occasion, the high sense I entertain of the judicious and spirited exertions of the magistrates of that county and other friends to good government, in the apprehension of the offenders, and to acknowledge the friendly and efficient co-operation of the executives of our sister states. This unfortunate occurrence, has necessarily obliged me to sanction measures, which have occasioned some extraordinary expense, and which will require legislative provision.

Complaints having been made to me in the recess, by the Oneida and Cayuga nations, of intrusions made upon the lands reserved by treaty for their use; justice and good faith required that I should exert the powers vested in me by law, for the removal of the intruders, and this has accordingly been effected, to the satisfaction of the Indians, in the manner mentioned in letters from the sheriff of Herkimer county, which you will find among the papers delivered for your information. It is worthy at the same time, of the consideration of the legislature, whether it would not be more compatible with the mild spirit of our government, to commit this business in future to the ordinary magistrate, which, in the present condition of that part of the county, it is conceived may be done with safety.

The statements exhibited at the last session, disclosed the eligible condition of our finances; and from a report of the commissioners of the land-office, made in pursuance of the act for the sale and disposition of the waste and unappropriated lands, it appears that our treasury will receive an augmentation sufficient, under prudent management, to produce an annual revenue exceeding the ordinary expenses of government. As part of this money is already received, and a great proportion of the residue will be paid before the next annual meeting of the legislature, it will require your wise consideration, to dispose of it in such a manner as to

render it productive ; connecting at the same time the interest of the citizen, with the prosperity of the public. I would only remark, that by giving this capital an extensive circulation, the necessities of individuals may be supplied, the settlement of the country advanced, and the interests of agriculture and commerce promoted.

The legislature, at their last meeting, impressed with the importance of improving the means of communication, not only to the agriculture and commerce of the state, but even to the influence of the laws, directed the commissioners of the land-office to cause the ground between the Mohawk river and the Wood-creek in the county of Herkimer, and also between the Hudson's river and the Wood-creek in the county of Washington, to be explored and surveyed, and estimates to be formed of the expense of joining those waters by canals : I now submit to you their report, which ascertains the practicability of effecting this object at a very moderate expense, and I trust that a measure so interesting to the community will continue to command the attention due to its importance, and especially as the resources of the state will prove adequate to these and other useful improvements without the aid of taxes.

As the diffusion of knowledge is essential to the promotion of virtue and the preservation of liberty, the flourishing condition of our seminaries of learning must prove highly satisfactory, and they will, I am persuaded, be among the first objects of your care and patronage, and receive from time to time such farther aid and encouragement as may be necessary for their increasing prosperity.

GEO. CLINTON.

New-York, Jan. 5th, 1792.

At the time appointed by law for choosing Presidential Electors, the Legislature met at the city of New-York for that purpose, when the Governor delivered the following

SPEECH :

GENTLEMEN OF THE SENATE AND ASSEMBLY,

THE present meeting being in pursuance of a law of the last session, authorizing you to appoint electors of a President and Vice-President of the United States, this important business will consequently engage your immediate attention ; especially as farther legislative provision will be necessary on this subject, owing to the establishment of a ratio of representation different from the one contemplated by that law.

As the period for the stated annual meeting of the legislature will soon arrive, economical consideration will sufficiently recommend the expediency of completing the public business previous to an adjournment. The settlement of our contested boundaries, the digest of the laws, the arrangement of our finances and the other various salutary regulations, which since the conclusion of the war, have occupied the attention of the legislature, being happily accomplished, your present deliberations will necessarily be confined to a few objects. At this time I have therefore only to mention to you the necessity of providing for the election of members of the house of representatives of the United States agreeably to the late apportionment ; the conforming our militia establishment to the regulations recently enacted by congress, and the revision and amendment of such of our laws as may from experience have been found obscure or defective.

I have directed the annual reports and other papers, that may be necessary for your information, to be prepared and laid before you ; and if in the course of the session, any thing should occur requiring legislative interposition, it shall be communicated to you by message.

While the misfortunes which some of our sister states suffer by the depredations of a savage enemy, are greatly to be lamented, our unfeigned thanks are due to Divine Providence for an exemption from so great a calamity. In the recess an atrocious murder of a chief of one of the Indian nations, residing within our jurisdiction, threatened in some degree an interruption of that harmony which has hitherto so happily prevailed, but from the papers which will be communicated to you, you will perceive that the measures adopted on this occasion have preserved their confidence in the justice of government, and prevented any evil effects from that disagreeable circumstance.

GEO. CLINTON.

New-York, Nov. 6th, 1792.

The Legislature met, pursuant to law, on the first Tuesday in January, at the city of Albany, agreeably to a concurrent resolution previously adopted ; when the Governor delivered this

SPEECH :

GENTLEMEN OF THE SENATE AND ASSEMBLY,

It is not without great satisfaction, that in meeting the legislature at this time, I can felicitate them on a continuation of our national

prosperity. By the favor of divine Providence, the war which embraces so great a proportion of Europe, has not yet extended itself to this country. While we sympathize in the distresses of those who are more immediately exposed to its desolating hand, we cannot sufficiently express our gratitude to that gracious Being through whose kind interposition we are preserved from a participation in them, and yet enjoy the blessings of liberty and peace.

The extensive intercourse between most of the belligerent nations and the United States, forbids us, however, to regard with indifference the war in which those powers are at present engaged; being at peace with all, and having treaties with several of them, the preservation of our neutrality inviolate became an object of the first magnitude, and has commanded the attention of the general as well as of the particular governments. In accomplishing an end so essential to the present happiness and future prosperity of our country, I found myself frequently called upon by the executive of the United States, to aid in carrying into effect, measures which are deemed necessary for that purpose. A full and unreserved communication of all my official acts will inform you of the cases which the existing war has given rise to within this state, and of the measures which have been pursued in consequence.

Although the general friendly disposition manifested by the United States, gives us a right to hope, that the war will terminate without involving us in the miseries of it, or essentially interrupting our peace and prosperity, yet as our situation is critical, it might be imputed to me as a want of duty, were I to omit reminding you of the naked and exposed condition of our principal sea port, and urging the necessity of immediately providing for its defence. To prevent insult and invasion, we must ever be prepared to punish the one, and repel the other. If it shall be thought that this appertains exclusively to the general government, you will excuse me for mentioning it as a matter whose importance has impressed me very forcibly, and for expressing my perfect confidence, that if you shall not deem it expedient to originate any measure for this purpose, you will cheerfully co-operate in such as may be judged necessary by those whose duty it may be, to provide for our defence.

My satisfaction in congratulating you on the increasing prosperity of our state is considerably diminished, by being obliged to inform you, that the important posts on our northern and western frontiers, are still possessed by foreign troops. By this violation of treaty, our settlements are greatly impeded, our agriculture obstructed, and our citizens entirely excluded from a very valuable trade to which their situation would naturally have invited them. I am aware, that a notice of this aggression is more immediately within the province of the federal government; in whose zeal to redress the injury, the most implicit confidence may be reposed, and whose remonstrances it is to be hoped, will be attended with a success

proportionate to the justice and importance of the case ; but certain complaints which have been made directly to me, by persons holding lands under grants from this state, and also by others whose property has been taken from them, within our territory, under authority derived from the British government, forbid my observing a silence on this head.

Among many other important matters, which will occupy your deliberations, are certain resolutions of the legislatures of Massachusetts and Virginia, respecting the suability of a state : which are submitted to you at the request of the executives of those commonwealths. The decision of the supreme federal court, which gave rise to these resolves, involves so essentially the sovereignty of each state, that no observations on my part can be necessary to bespeak your early attention to the subject matter of them. It may be proper, however, to suggest, that our convention, when deliberating on the federal constitution, in order to prevent the judiciary of the United States from extending itself to questions of this nature, expressly guarded against such a construction, by their instrument of ratification. A suit has, notwithstanding, been instituted by an individual against this state. To you, therefore, it will belong to pursue such measures as the occasion may require, consistent with the constitution of the United States, and best corresponding with our own sovereignty, and the general welfare of the union.

The northern and western companies of inland lock navigation having, agreeably to law, produced authentic accounts of their expenditures, I have given the necessary certificate to entitle them to receive from the treasury, the sum of ten thousand pounds, as a free gift on the part of this state, towards the prosecution of those interesting objects. Although the care of improving and opening these navigations be committed to private companies, they will require, and no doubt, from time to time, receive from the legislature every fostering aid and patronage, commensurate to the great public advantages which must result from the improvement of the means of intercourse.

The sanguinary complexion of our criminal code has long been a subject of complaint. It is certainly matter of serious concern, that capital convictions are so frequent, and that so little attention has been hitherto paid to a due proportion between crimes and punishments. The greatest offences occur most frequently in those countries which have been remarkable for the severity of their punishments. Hence it is becoming the policy of modern legislators, to prevent crimes rather by the *certainty* than the *severity* of the sanction. If you should coincide in sentiment with me, that a revision of our penal laws is entitled to attention, I have a confidence that your wisdom and humanity will lead to such improvements as the several cases may require, and a regard to public security will warrant. Some judicious remarks of the late Attorney

General, on the expediency of a reform in this particular, and which have been heretofore communicated to the legislature, may assist your deliberations.

The prevalence of an infectious disease in Philadelphia, reduced me to the painful necessity of prohibiting an intercourse between that city and us. By the law authorising this measure, no adequate provision is made for carrying it into effect. Certain expenses necessarily accrued, which have been defrayed by the corporation of the city of New-York. The reimbursement of which, and of other sums generously advanced by that board, in the progress of this business, is submitted to your justice and liberality.

To the congress of the United States is delegated the power of organizing and arming the militia. By their act every citizen, who is enrolled, is required, at his own expense, to provide arms and other accoutrements. This, it is to be feared, from representations I have received, many of our citizens, especially those on the frontiers, will be unable to do. Regarding the militia as our only defence in case of foreign invasion or domestic insurrection, too early attention cannot be bestowed to the arming and accoutering of them. Perhaps, therefore, it will facilitate their complete organization, upon the plan adopted by the general government, if legislative provision be made for equipping, at the public expense, in the first instance, such of our fellow-citizens as may be incapable of doing it themselves. In this view, it is recommended to your consideration, and I trust that its importance will justify the notice I have taken of it.

I leave with you the several papers referred to in this address, and shall cause to be laid before you, the annual report of the commissioners of the land office : A letter from the secretary of the treasury, announcing a balance against this state, in a settlement with the United States ; and the usual returns and statements from our treasury. From these documents the state of our finances may be estimated, and our public disbursements and expenditures properly regulated.

GENTLEMEN,

At no time since the revolution have public affairs required more unanimity, wisdom, prudence and patriotism, in the representatives of the people, than at present. It cannot, therefore, be doubted, but that you will proceed in the business of the session with all that diligence and zeal for the public good which have ever characterized the legislative bodies of this state, and that the result of your deliberations will be productive of solid and lasting advantages to our constituents.

GEO. CLINTON.

Albany, Jan. 7th, 1794.

The following letter was communicated by the Governor to the presiding officers of the Senate and Assembly, stating his reasons for not meeting the Legislature this year in person :

Greenwich, January, 3, 1795.

GENTLEMEN,

As I am prevented from meeting the legislature at the commencement of the session, I think it necessary to inform them through you more particularly of the reasons, than might have been proper in my message.

For upwards of three months, I have been confined to my chamber, and for the most part of the time to my bed, by an acute or inflammatory Rheumatism of the severest kind ; and although for some time past the more violent symptoms of my disorder, had considerably abated, and I was thereby induced to entertain hopes of meeting you at the place of adjournment at a probable time when my attendance would be rendered essential, if not at the opening of the session, yet I had my recovery so slow and incomplete, that candor obliges me to declare my apprehensions of being unable to attend at the designated place, as I most earnestly wished, and which I am still determined to do, if my health will permit ; under these circumstances, I submit to the wisdom of the legislature, the measures proper and expedient to be pursued in order to advance the public service. I have the honor to be with the highest respect, your most obedient servant,

GEORGE CLINTON

*To the Hon. the President of the Senate,
and Speaker of the Assembly
of the state of New-York :*

MESSAGE.

GENTLEMEN OF THE LEGISLATURE,

To perform the duties required from me by the constitution I am necessitated to communicate with you by message, being prevented by sickness from opening the session in person.

In informing you of the condition of the state, I am happy to observe that the same causes continue, which have hitherto contributed to its prosperity. In a ready obedience to the laws ; in the prevalence of public tranquility ; in the advancement of our population and settlements, and in the growing interests of general improvement, we find abundant and multiplied sources of private happiness and national felicity. Under these favorable circumstances the objects of pointed legislative attention are necessarily restricted ; and I have therefore little more to observe, than to express my confidence, that in the promotion of the means which may advance, and the removal of the obstacles that may re-

tard the prosperity of the state, will be felt the wisdom of your deliberations and the efficacy of your measures.

As the alarming aspect of public affairs induced the legislature, at their last session, to make provision for the purchase of arms and ammunition, and the fortification of our sea port and frontiers, a full detail of the execution of these different objects will now be submitted to you. Although the appropriations for fortifications were in the first instance incompetent and the advanced price of labor and provisions, has since increased the inadequacy, yet the works intended for the protection of our principal city and harbor, are in great forwardness: the patriotic exertions of the inhabitants having supplied, in no inconsiderable degree, the deficiency of the grant. I should, however, on this occasion conceive myself deficient in duty, were I not to observe that many of the reasons which induced their commencement, still exists for their completion; that the events of Europe may have influenced our political relations, cannot be doubted, but the daring claims recently made upon our western territories, and which in its principle, comprises a considerable part of the state, admonishes us to be on our guard, and to be prepared to meet such menaced aggressions with a resistance proportioned to their magnitude.

The revision of our criminal code, cannot re-occupy your attention at too early a period, or in too serious a manner; the expectation of our constituents; the feelings of humanity, and the welfare of the community, are deeply interested in the prosecution of this design. It is indeed a subject of melancholy consideration, that our criminal law should be so repugnant to the mild genius of our constitution, and so similar in its punishments to the cruelty of despotic governments. The substitution of hard labor or confinement, instead of the punishment of death, will be greatly facilitated by the fortifications erecting on the island in the vicinity of New-York. And while you are engaged in this business, it may not at the same time be unworthy of your enquiry, whether our system of jurisprudence is not in other respects defective in its being so implicitly borrowed from a nation differing from us in manners, government and principles of policy.

While it is evident that the general establishment and liberal endowment of academies, are highly to be commended, and are attended with the most beneficial consequences; yet it cannot be denied that they are principally confined to the children of the opulent, and that a great proportion of the community is excluded from their immediate advantages; the establishment of common schools throughout the state, is happily calculated to remedy this inconvenience, and will therefore re-engage your early and decided consideration.

I have directed the usual returns and statements to be laid before you, to assist you in your deliberations, together with such other communications, as may be necessary for your information.

GEO. CLINTON.

Greenwich, Jan. 3, 1795.

JOHN JAY.

The Legislature met pursuant to law : and after having organized both houses, the Governor gave his "attendance" and opened the session with the following

SPEECH:

GENTLEMEN OF THE SENATE AND ASSEMBLY,

PERMIT me to avail myself of this first opportunity, which has occurred, of expressing through you to my constituents, the high sense I entertain of that esteem and confidence which prompted them to place me in the station I now fill. Fully apprised of the duties which it imposes upon me, my best endeavors shall be exerted to fulfil them ; and I flatter myself that in the course of my administration, the sincerity of this assurance will be found to rest on better evidence than professions can afford.

To regard my fellow-citizens with an equal eye ; to cherish and advance merit, wherever found ; to consider the national and state constitutions and governments, as being equally established by the will of the people ; to respect and support the constituted authorities under each of them ; and in general, to exercise the powers vested in me, with energy, impartiality and prudence, are obligations of which I perceive and acknowledge the full force.

I concur in the sentiments and adopt the language of our excellent and illustrious President, in observing that "we could not have met at any period, when more than at the present, the situation of our public affairs afforded just cause for mutual congratulations ;" and I make this observation with the greater pleasure, as in the general welfare of the union, this state participates so largely.

The rapid increase of our population ; the flourishing state of our agriculture and commerce ; the extension of our external and internal navigation ; the progress of learning and science, so essential to rational liberty and good government ; and the uncommon degree of wealth and plenty, which follow the footsteps of industry, and the arts of peace, in all their walks, unite with numerous other blessings, in affording us abundant reason to rejoice, to be content, and to be grateful.

But although national prosperity can neither be attained nor preserved without the favor of Providence, so neither can it be attained or preserved without the subordinate instrumentality of those means, which Providence provides, and reason directs us to use.

There is no state of human happiness, public or private, so perfect or secure, as to dispense with that constant care and superintendence, which all our affairs require ; and which you will now find it expedient to extend to several interesting objects.

It has been often and justly observed, that in order to preserve peace, every nation should not only treat others with justice and respect, but also be in constant readiness to resist and repel hostilities. Imbecility invites insult and aggression, and the experience of ages proves that they are the most secure against war, who are the best prepared to meet it.

Although it belongs to our national government to provide for the defence of the United States, and although that great object will doubtless continue to receive, as well as to claim their attention ; yet it is also highly interesting, that nothing properly depending on us be omitted, to give efficacy to their laws and measures.

Having but one port through which the great mass of our exports and imports pass, the importance of fortifying it has been generally seen ; and considerable progress has been made in executing the plans formed under the direction of the general government for that purpose. Much yet remains to be done ; and if from the details which will be laid before you, it shall appear that further aids on the part of this state would be proper, I am persuaded they will be readily afforded.

Difficulties have been experienced in importing from foreign countries sufficient quantity of arms and ammunition, and the present scarcity of those articles in general, and of one of the most essential of them in particular, is a disagreeable circumstance. It certainly is very desirable that we should not depend on foreigners for the means of defence ; and therefore, that the manufactures necessary to furnish these supplies, should be encouraged and patronized by the legislature.

The constitution of this state expressly directs that "a proper magazine of warlike stores, proportionate to the number of inhabitants, be forever, at the expense of this state, and by acts of the legislature, maintained and continued in every county in this state."

They who formed this constitution, had been taught by severe experience, that the day of alarm and battle was not the best season for seeking, and procuring these important stores.

Laws and regulations, however carefully devised, frequently prove defective in practice ; and as the regulation of the militia pursuant to the act of congress, merits constant attention, it may be useful to enquire whether experience has pointed out the necessity of any amendments which, consistently with that act, may be made in our law on this subject.

There is an article in the constitution, which by admitting of two different constructions, has given rise to opposite opinions :

and may give occasion to disagreeable contests and embarrassments. The article, I allude to is the one which ordains that the person administering the government for the time being shall be president of the council of appointment, and have a casting voice, but no other vote ; and with the advice and consent of the said council, shall appoint all the officers, which the constitution directs to be appointed. Whether this does by just construction assign to him the exclusive right of nomination, is a question which, though not of recent date, still remains to be definitively settled. Circumstanced as I am, in relation to this question, I think it proper merely to state it, and to submit to your consideration the expediency of determining it by a declaratory act.

The more the principles of government are investigated, the more it becomes apparent that those powers and those only, should be annexed to each office and department, which properly belong to them. If this maxim be just, the policy of uniting the office of the keeper of the great seal with that of governor, is far from being unquestionable ; the powers of the former not being necessary to the latter. It seems, on general principles, more proper that important acts made or agreed to by the governor, should be validated and rendered binding on the state, by an officer who did not officially participate in them, than by himself. Important cases occasionally arise, in which a competent knowledge of the law, and that kind of discretion which results from it, are necessary to decide whether the sanction of the great seal ought to be given or to be withheld : and although persons not possessed of those acquirements, may administer the government very ably in other respects, yet in that respect they would be liable to commit mistakes not easy to correct.

One great object of which a people, free, enlightened and governed by laws of their own making, will never lose sight, is, that those laws be always so judiciously applied and faithfully executed, as to secure to them the peaceable and uninterrupted enjoyment of their rights. To this end it is necessary, and sound policy certainly requires, that the dispensation of justice should invariably be committed to the men the best qualified to perform that very interesting task ; with this policy the present situation of the Chancellor and of the Judges of the supreme court does not appear to me to correspond. Their salaries, not being more than adequate to their current expenses, yield little or no surplus to form a provision for their families. Instead of the tranquility, the domestic comforts and the exemption from anxious cares, which sensibility claims for declining years, they must, when those years arrive, retire to private life, without having received from their country the means of enjoying it. These circumstances have no tendency to invite able and distinguished lawyers, few of whom possess ample patrimonies, to exchange their lucrative practice for seats on the bench ; and yet by such men only should those seats be filled. Permit me, therefore, to submit to your consideration, whether justice, pub-

lic good and the honor of the state, do not strongly recommend, that some provision be made for such of these judicial officers as having long and faithfully served their country in that capacity, come to the age, at which according to an article in the constitution, their commissions expire.

There is another subject, also belonging to the judiciary department, respecting which some legislative provision has become very requisite. So great is the extent and population of the state, and so numerous and frequent are our courts, that the attorney general cannot possibly manage all the prosecutions (existing at the same time in different counties) which demand his care and attention.

It continues to be worthy of consideration how far the severe penalties prescribed by our laws in particular cases admit of mitigation ; and whether certain establishments for confining, employing and reforming criminals will not immediately become indispensable.

The measures which have been taken pursuant to the laws respecting the management of our affairs with certain of the Indian tribes, together with the results of those measures ; and a variety of documents on that and other subjects will be communicated and laid before you.

While on the one hand we all lament the distresses occasioned by the sickness which lately prevailed in this city, it becomes us on the other to acknowledge with gratitude that divine interposition by which its extent and duration were so limited. The expenses which that uncommon and unexpected calamity made indispensable, exceed the sum assigned by law for such purposes. And the precaution which in the city of Albany it was judged prudent to take, in order to prevent the inhabitants from being involved in the like calamity, demanded expenditures which yet remain to be provided for. These accounts will be laid before you, together with those which respect the application of the monies granted for the relief of the refugees from St. Domingo residing here. The situation of these unfortunate people still continues to be truly distressing, and to interest our compassion.

The wisdom of our laws has ordained that every place shall maintain its own poor. But it appears to me proper to remark, that by the events of the desolating war between many of the European powers, and by the advantages which this country offers to emigrants, a great number of persons are induced to come to this state, without other resources than what the benevolence of our citizens or other adventitious circumstances may furnish. As these people do not properly belong to any particular place in this or the neighboring states, would it not be right to consider those of them who may be real objects of charity, as the poor of the state, and to provide for them accordingly.

The ultimate connexion that subsists between our agriculture, commerce, and navigation, strongly recommends the policy of facilitating and multiplying the means of intercourse between the dif-

ferent parts of the state. This topic embraces many others which will not escape your discernment, and which on investigation will be found to be highly interesting. Indeed the improvements of which our local situation and civil polity are susceptible, are so various as to afford you an arduous and complicated, but still not an unpleasing task. It is a task which cannot be properly performed without much time, application and well digested information, for it will always be found more difficult and also more useful to legislate well, than to legislate much.

There is reason however to expect that in the course of the session, considerable progress will be made ; and that the benefits resulting to our fellow-citizens from your attention to their interests, will afford additional proofs, that their confidence cannot be so discreetly placed, as in the wisdom and patriotism of their real and responsible representatives.

That wisdom and patriotism will, I am persuaded, give to your deliberations all the advantages which accompany moderation and concord ; and you may rely on my readiness to co-operate with you in every measure for augmenting and securing to our constituents, the numerous blessings they derive from the happy state of peace, liberty and safety, which by the favor of heaven we enjoy.

New-York, Jan. 6, 1796.

JOHN JAY.

The Legislature assembled at the City of New-York, on the first day of November ; and after having chosen their respective officers, they met the Governor in the Court Room, who made this

SPEECH :

GENTLEMEN OF THE SENATE AND ASSEMBLY,

When it is considered how greatly the happiness of every nation depends on the wisdom with which their government is administered, the occasion which has called you together at this early season, cannot but be regarded as unusually important.

The period fixed for the election of a President of the United States is approaching ; and the measures preparatory to it in this state, are now to be taken. In every possible situation of our national affairs, whether of peace or war, of tranquility or ferment, of prosperity or misfortune, this object will not cease to demand the utmost care and circumspection.

Hitherto the embarrassments arising from competitions, and from the influences incident to them, have not been experienced : they have been excluded by the uniform and universal confidence reposed in that illustrious patriot, who, being distinguished as the

father and ornament of his country, by a series of great and disinterested services, was also eminently qualified by an uncommon assemblage of virtues and talents, for that important and exalted station.

But that extraordinary man having, with admirable wisdom and fortitude, conducted the nation through various vicissitudes and unpropitious circumstances to an unexampled degree of prosperity, is now about to retire. Mankind has not been accustomed to see the highest military and civil powers of a nation so received, used and resigned, as they have been in this glorious instance. Every reflection and sentiment connected with this interesting subject, will naturally arise in our minds. May the same benevolent, wise, and over-ruling providence, which has so constantly and remarkably sustained and protected us, preside over the public deliberations and suffrages.

It gives me pleasure to inform you, that at a treaty held in this city, under the authority of the United States, a final agreement has been concluded between this state and the Indian tribes, who call themselves the seven nations of Canada. Although their title to the territory they claimed was not unquestionable, yet it was judged more consistent with sound policy, to extinguish their claims, and consequently their animosities, by a satisfactory settlement, than leave the state exposed to the inconveniences which always result from disputes with Indian tribes. Besides considering our strength and their comparative weakness, every appearance of taking advantage of that weakness, was to be avoided.

The claims of the Mohawks to certain other lands, still remain to be adjusted; but there is reason to expect that these may also be amicably settled: and that the period is not far distant, when the Indians on our borders, having convincing proofs of our justice and moderation, will by good offices and a friendly intercourse be led to rely on our benevolence and protection, and to view our prosperity as connected with their own.

I submit to your consideration, whether the payments to be annually made to the different tribes, who are entitled to them by contracts with the state, should not be so ordered, as that they may be *punctually* paid in a *uniform* manner, and at a *fixed* expense.

Difficulties were experienced in executing the benevolent intentions of the legislature respecting a Lazaretto in the vicinity of this city. Ground conveniently situated could not be purchased; and the placing it on Governor's Island, where it could not have been erected at a proper distance from the garrison was liable to strong objections. These difficulties have been removed by the liberality of the corporation of the city. They have gratuitously conveyed Bedlow's Island to the state, for this and such other public uses as the legislature may from time to time direct. Certain buildings, erected there by the French republic, have been purchased, and prepared to serve the purpose of a lazaretto for the

present. But as additions and alterations will be necessary, and as precautions should be taken to prevent that island from being further diminished, by encroachments of the water, the appropriation of some money for these objects, will be requisite.

The measures prescribed by law, to prevent the bringing and spreading of infectious diseases in this state, have been taken, and faithfully executed. It is however to be lamented, that cases of the like fever with that which in the last year proved so fatal to this city, have occurred; and there is at present very little reason to doubt whether that disease may be generated here. The subject of nuisances, therefore, having become important to the safety as well as to the comfort of our fellow citizens, well deserves the notice and interposition of the legislature.

Precarious is the peace and security of that people who are not prepared to defend themselves. Permit me to observe, that this state has but one port, and that, important as it is to the whole state, its situation cannot yet be deemed secure. The fortifications that were begun are still unfinished; and it appears to me to merit consideration, whether this port can otherwise be secured than by skilfully fortifying the passage at the Narrows. It cannot be too frequently recollected, that seasons of peace and prosperity are the most favorable for measures and works of this kind.

Considering the funds which the state possesses; the appropriations which have been and will be made, for various public uses; the accounts consequent to such appropriations, and the evident utility of so arranging and conducting our fiscal affairs, as that the funds may be advantageously managed, accounts with individuals regularly settled, and the balances due to and from them punctually paid: I think it my duty to suggest, whether more adequate provision for these objects should not be made.

Although our taxes have for years past been inconsiderable, and although there is at present no prospect of our being pressed by any necessity to increase them, yet it is to be presumed, from the vicissitudes which attend human affairs, that at some future period more ample contributions may become indispensable; would it not, therefore, be prudent, at this calm and tranquil season, to adopt and establish such rules and regulations for taxation, as being perfectly consistent with the principles of justice and rational liberty, and gradually acquiring the advantages of experience and usage, may relieve this delicate subject from many of the perplexing questions about principle, mode and manner, which at all times are difficult, and which are particularly embarrassing in times of anxiety and agitation.

The distressed situation in which the French refugees from St. Domingo arrived here, induced the legislature to provide for them in a very beneficent manner. The sums allotted for their support have been expended, and the accounts audited and settled; many of those unfortunate persons have left the state; but it is represented to me, that a number of old persons and children are still

here, and in a situation so destitute and wretched, that I cannot forbear mentioning it to you. They cannot with propriety be considered as the poor of any particular district; their fate is peculiar as well as distressing, and they appear to me as having become by the dispensations of Providence the poor of the state.

It often happens that persons, not urged by circumstances equally pressing, come into the state, from distant parts, and in many instances become burthensome to it. This subject seems to call for some regulations, especially as the law heretofore passed relative to it has ceased to operate.

I ought not to omit informing you, that the honorable Mr. King having been appointed minister plenipotentiary to the court of Great Britain, and accepted that place, his seat in the Senate of the United States has become vacant.

In the course of your deliberations on the affairs of the state, and the means of preserving and increasing the public welfare, many interesting subjects will rise into view—Such as these, among others: The manner in which the salt springs may be rendered most useful, and the woods in the neighborhood of them best preserved; the facilities and encouragement that may be proper towards obtaining an accurate map of the whole state; the necessity of rendering the laws, respecting roads and bridges, more effectual; and of revising and amending those which relate to the militia, and which direct the inspection of certain of our staple commodities. As these and various other objects derive importance from their relations to the general welfare, they will, I am persuaded, receive a proportionate degree of your attention; and I assure you, that it is no less my desire than it is my duty, to co-operate with you, in guarding and promoting the prosperity and happiness of our fellow-citizens.

JOHN JAY.

New-York, November 1, 1796.

The Legislature met pursuant to Law at the City of Albany, on the second of January, when the Governor opened the session with the following

SPEECH:

GENTLEMEN OF THE SENATE AND ASSEMBLY,

It must afford sincere and cordial satisfaction to our follow-citizens, to see the representatives whom they have freely chosen, thus peaceably and calmly assemble, to deliberate on their com-

mon concerns, and to concert the measures most conducive to their common prosperity.

Nor will they derive less satisfaction from the reflection, that at this moment the representatives of the Union, in which this State constitutes an important member, are in like manner concerted, and in harmony proceeding in concert and provide for the national interests.

This is an eventful and interesting period. and very important and impressive are the circumstances and considerations which render union, prudence and energy essential to the welfare, if not to the safety, of the United States. May the great author and giver of good counsel, dispose and change our governments and people to fulfil their respective duties wisely.

During the last summer, an extraordinary session invited the President to convene the Congress. Their acts and opinions will be laid before you, for your information. Among the acts there is one of which it is proper to make particular mention.

It is entitled "an act authorizing a detachment from the militia of the United States." By it the President is empowered to require of the executives of the respective States, in case of actual measures, at such time as he shall judge necessary, to organize, arm and equip, and hold in readiness to march at a moment's warning, the proportion of militia designated and assigned to them respectively.

In pursuance of this act the President has been pleased to direct, that the quota of troops assigned to this State, should be kept in readiness; and orders have been accordingly given, and in numerous instances have been complied with, in a manner very agreeable to the militia of this State.

It will not escape your observation, gentlemen, that by the act the executives of the several States are not only authorized but also to arm and equip the detachment required of them. When on this, or any future occasion, such detachments shall be called to the field, it is to be expected that they will be found completely armed and equipped. There will doubtless be deficiencies; and to me it appears proper that the necessary supplies should be seasonably provided, and that they be managed in the manner best calculated to guard against waste and dissipation.

On reviewing the internal affairs of the State, yet with a mind find it necessary to attend some of our existing evils.

The act making alterations in the criminal law, and substituting the punishment of imprisonment instead of death in certain instances, appears to me to have omitted either expressly or otherwise, or impliedly to decide, whether it was and what respect the courts should in those cases extend to affect civil rights and relations.

The restriction in the act respecting judicial officers, general which limits the appointments to counties or at one residence in the respective districts, has been and still is a source of great evils, productive of inconvenience and embarrassment.

The laws respecting quit rents might in my opinion be amended by a provision, enabling the holders of land subject to it, to acquire at any time an exoneration from that charge, on just and reasonable terms. To me it appears advisable, that the proprietors of land throughout the state, should, by the gradual operation of such a provision, be eventually placed in this respect on a similar and equal footing.

Imperfections in the militia laws are frequently experienced; and the relation which this subject bears in the defence of the nation in general, and of this state in particular, places it in an interesting point of light. The maxim that every nation ought to be constantly prepared for self-defence, is founded on the experience of all ages; it is true at all times, and under all circumstances: it is by the constitution of the state expressly recognized and adopted, and in strong terms enjoined as a duty on the legislature. It deserves, therefore, to be considered whether the provisions made by the existing laws for this object, are sufficiently ample and adequate.

Under colour and cover of the act for defraying county charges, taxes are often so unequally assessed on unimproved wood land, and with such inexcusable waste and destruction collected, as to require legislative interposition. Every system of taxation is certainly defective and exceptionable, which does not afford the best checks which human prudence and human laws can devise, against partiality, fraud and oppression. That government cannot cease to attract and to preserve confidence and attachment, which leaves no rights without protection, no grievances without redress.

It is considered as a rule to which there are few exceptions, that when a law is treated with manifest and general disrespect and disobedience, it should either be repealed, or more competent means to enforce it be devised; a tolerated violation of one law naturally leading to, and encouraging the infraction of others.

Although the obligation to observe and obey equal and constitutional laws, plainly results from our social compacts, and makes a part of the moral law, yet the statute prohibiting usury and limiting the interest of money, is notoriously and daily violated, and that, not only by those on whom such considerations have little influence, but even by too many of those whose characters and conduct are in other respects fair and correct.

There is also much reason to regret that more respect is not generally paid to the injunctions of the act relative to Sunday. If the Sabbath be, as I am convinced it is, of divine appointment, this subject ought not to be regarded with indifference.

In a state so progressive as ours, new cases and exigencies will frequently arise, and require legislative provision

At least two arsenals for the reception and safe keeping of military stores, are thought to be necessary; one at New-York and another at this place. For the one at New-York, the corporation of that city have liberally and gratuitously granted to the people of

the state, a large, and valuable lot of ground, and the commissioners have my approbation to erect an arsenal on it.

The situation of Albany, considered in relation to the other counties, to security, and to the facility of transportation by land and water, seems to point it out as a proper place for an arsenal, and on a larger scale than the one proposed for New-York. If these ideas should meet with your approbation, the means of realizing them will of course be attended to.

The value and importance of the military stores which will from time to time belong to the state, require that they should be well preserved, and also securely kept. Both these considerations unite in suggesting whether these purposes, can be so properly and economically effected, as by a competent number of guards, carefully selected, organized and regulated. The utility of this measure becomes more apparent on considering, that it may be made subservient not only to the security and business of the arsenal, but also to the security of the state prison; every escape from which, however caused, will in a degree counteract the purposes of that benevolent institution. Sound policy dictates that our mild punishments should be made to produce by their *certainly* and *duration*, a portion of that dread which sanguinary ones impress by their *severity*.

I forbear, gentlemen, to press your attention to the great interests of learning, public justice, agriculture and commerce, being persuaded that nothing will be omitted to render the session useful to our fellow-citizens and honorable to their representatives.

JOHN JAY.

Albany, January 2, 1798.

The Governor, by proclamation, convened the Legislature at the City of Albany, on the ninth day of August. After having organized, they met the Governor in the Assembly Chamber, when he opened the session with this

SPEECH :

GENTLEMEN OF THE SENATE AND ASSEMBLY,

PERCEIVING the various objections which opposed the holding a special session of the legislature, and particularly at this season of the year, it was not until after very mature reflection, that I became convinced that it was my duty to convene you. The reasons on which that opinion was founded, have been made known; and subsequent events have not diminished their force. Our national affairs, in relation to France, had since the last session assumed an aspect so serious and alarming, as to induce the government of the United

States to communicate to the public the information contained in the state papers, which will be laid before you ; and thereby to apprise the nation of the dangers which demanded immediate attention to their defence and security. Although aware that this great business belonged to the national government, yet how far the safety and essential interests of this state required that auxiliary and correspondent measures on her part should be taken without delay, was a question more proper for you than for me to consider and decide ; and that it might, without loss of time, be submitted to your consideration, a special session was indispensable.

From the disinterested and friendly attentions early and repeatedly paid to the government of the French republic ; and particularly in not only recognizing its independence and authority at a delicate crisis ; but also in paying to it, before all the stipulated periods had arrived, the whole debt contracted under the monarchy, the United States had reason to expect that the most scrupulous regard would have been shewn by that republic, to all the rights which belonged to their independent, pacific and neutral situation. But these expectations, however rational, proved to be delusive. The rulers of that republic immediately endeavored to take undue advantage of this friendly disposition, and did not hesitate to practice improper arts, and to make overbearing attempts to involve us in their wars, and for their objects ; and that without any regard to the state of peace and tranquillity with which Providence had blessed us, and which it was not less our duty than our interest to preserve and maintain, until reasons the most cogent and indispensable should render a recurrence to arms necessary and justifiable.

It is remarkable that from the arrival of the first minister sent here by that republic, their conduct towards us has been constantly becoming more and more disrespectful, offensive and inimical, notwithstanding the sincere and conciliatory overtures made to them by the United States. Two legations sent to them, with ample powers and instructions to propose and even to request an amicable discussion and settlement of differences, have been treated and repelled in a manner repugnant to justice and decorum ; and the late very reprehensible and disgusting demands which have been made, leave no room for us to believe or hope that peace with the United States is among the objects of the present directory. The intrigues and violence by which several European republics have been subjugated and impoverished, and by which the peace and neutral rights of other unoffending nations continue to be disturbed and violated, cast light on the designs and views of France in their treatment of this country. They unite in admonishing us to guard against that system of deception, domination and rapine, which, embracing both Europe and America, will, with respect to the latter, be still more decidedly manifested in case the directory should acquire a preponderancy on the ocean.

Very wisely, therefore, has the government of the United States called upon the nation to prepare for defence ; and very incumbent it is on every state and on every citizen to co-operate in providing for the general security. Whether any and what measures conductive to that end, should now be adopted by this state, is a subject which deserves your serious consideration ; it is a question which comprehends several interesting objects. The defence of our port, respecting which some papers will be laid before you ; the defects of the militia laws ; the want of arsenals and of sundry articles of military stores, and of appropriated funds for contingent military services, are with others of the like kind worthy of attention.

While security is in question, the expense of providing for it is a secondary consideration. The objects before mentioned cannot be accomplished without more expense than the United States can seasonably and fully provide for. I am apprised of the state of our treasury, and that it has been greatly exhausted by appropriations heretofore made by the Legislature ; but as on the one hand no money can be taken from it without legislative authority, so on the other, it can only be replenished by such means as may be prescribed by law. It is to be regretted that too many of our citizens seem to have inadvertently flattered themselves, that unlike all other people past and present, they were to live exempt from taxes. To the influence of this error it is owing, that the state is at this moment in debt, and paying interest for money which in my opinion, it would have been more wise to have collected by a tax, than to have obtained on loan. To me it appears to be for the interest of the state, that the principal of our funds, unless on great and urgent occasions, should remain untouched, and that whenever our necessary expenses exceed our income, the deficiency should be supplied by taxes judiciously and impartially imposed. The confidence I have in the good sense of our constituents persuades me, that every tax adopted on proper occasions, and for necessary purposes, and on an equitable plan, will meet with their approbation ; especially when they reflect that all the officers of the government, and every member of the legislature, must partake in its inconveniences.

But whatever difficulties or differences in opinion may exist or occur, relative to our domestic expenses, it certainly becomes us unanimously and firmly to resolve, that they shall not be increased by tribute and contributions to any foreign nation. The great Sovereign of the universe has given us independence, and to that inestimable gift has annexed the duty of defending it. We may be involved in a severe contest, but we have no reason to despair of success. The United States cannot be conquered but by civil discord, under foreign direction ; and it is useful to recollect, that to this cause all fallen republics have owed their destruction. History will declare to future ages, that the United States were as kind as a neutral nation could with justice be, to the republic of France,

in the day when her destiny was doubtful. It is to be hoped that history will also declare, that when in the day of her power, France became tyrannical as well as triumphant, and had indecently required us to descend and take a place among her tributaries, the United States, with great magnanimity, and not with less wisdom, spurned her requisitions and maintained their dignity.

Permit me to conclude by assuring you, that I shall most cordially co-operate with you in cherishing a spirit of union and of patriotism; and in encouraging and enabling the citizens of this state to take, not only a due and necessary, but a distinguished part in preserving and transmitting to posterity our national honor unsullied, and our national rights and sovereignty undiminished.

JOHN JAY.

Albany, August 9, 1798.

The Legislature met pursuant to law, and after having organized both houses, they communicated with the Governor, who opened their session with this

SPEECH:

GENTLEMEN OF THE SENATE AND ASSEMBLY,

You will, I am persuaded, join with me, in deeply regretting that the topic which naturally rises first into view on this occasion, is the afflicting and unexpected death of that VIRTUOUS and GREAT MAN, who both in the field and in the cabinet, in public and in private life, attracted such an uncommon degree of merited esteem, confidence and admiration. His memory will be cherished by the wise and good of every nation; and truth, triumphing over her adversaries, will transmit his character to posterity in all its genuine lustre. His excellent example and excellent admonitions still remain with us; and happy will that people be whose leaders imitate the one and observe the other. But painful and important as our loss is, and difficult as it may be to restrain the effusions of our sensibility, yet it is to be recollected that the duties and business for which we are assembled, have indispensable claims to attention. Let us therefore proceed to fulfil those duties, and to do that business with the like laudable fidelity, circumspection and diligence, by which that real and eminent patriot was so greatly distinguished.

I take this early opportunity of laying before you a resolution of the legislature of Connecticut, signifying a desire amicably to settle the controversy mentioned in it; and appointing commissioners on their part for the purpose. This resolution will doubtless be received with respect and cordiality. Such is the respectable

character of Connecticut, and so intimate are our mutual relations, that a controversy so singular in its origin, so irritating in its prosecution, and so mischievous in its tendency and example, cannot, in my opinion, be too soon extinguished by amicable and proper stipulations with that state.

I also lay before you certain resolutions of the legislature of Vermont. They propose an amendment to the constitution of the United States, which, from the importance of it, as well as from the respect due to a sister state, is entitled to mature consideration.

The constitution of this state having with great wisdom committed the legislative, executive and judicial powers of government, to three distinct departments, I submit to your consideration whether the recent practice of annual gratuitous allowances by the legislature, to the officers of the executive and judicial departments, can consist with that independence by which alone the constitutional balance between all the departments can be kept even, and their reciprocal checks on each other be preserved. The small proportion which our important public statutes bears to the numerous private ones, passed for individual or for local and particular purposes, become remarkable. Might not the claims of individuals be for the most part heard, examined and ascertained in some mode more easy to them, and less expensive to the state, than by the legislature; and ought not business of great and general moment, to precede that of less and limited importance? It has not unfrequently happened that the earlier part of the session has been so far consumed in debates, and in preparing and passing acts respecting these lesser matters, that much interesting public business has been either too hastily dispatched towards the conclusion of the session, or been entirely relinquished and left unfinished. The frequency of acts for private incorporations, and the difficulty of afterwards restraining or correcting the evils resulting to the public from unforeseen defects in them, lead me to advert to the prudence of passing them only under such circumstances of previous publicity and deliberation, as may be proper to guard against the effects of cursory and inaccurate views and impressions.

Promising theories are not always confirmed by experience; and it is found that new laws, however carefully framed, have sometimes proved to be less salutary than was expected; and even to be productive of greater inconveniences than those against which they were intended to provide. Of this description is the act for the trial of causes to the amount of ten pounds. The evils arising from certain defects in it are manifest, and are generally seen and acknowledged. The skilful and beneficial manner in which it has, by a late act, been modified and adapted to the city of New-York, leaves little room to doubt but that it may likewise be so amended and modified, as to be well accommodated to every other part of the state; and the execution of it rendered more easy and agreeable to the magistrates. The statute relative to

punishments being in a course of fair experiment, I will only suggest, whether it would not be more expedient, that persons convicted of the impious and dangerous crime of perjury, and of assaults with intent to commit felonies of any kind, should receive their punishment of imprisonment in the state prison, than in the common gaols; from which escapes are more easily effected, and where the taverns usually, and in my opinion unadvisedly, permitted to be kept, lead to irregularities and corruption of morals. Notwithstanding the care with which our laws and regulations relative to infectious diseases have been observed, yet our principal city has again been distressed by the return of a very destructive one. Whence it arises, is a question which still remains involved in much obscurity; but as either of the two natural causes, to which it is generally ascribed, may be the true one, every further mean which human sagacity can devise, should be employed to remove or counteract them. If, however, in this instance, as in many others, Providence is accomplishing the purposes of moral government by the instrumentality of second causes, our future preservation from their calamitous effects, will depend more on moral than municipal reforms.

As the government most to be preferred, is that which procures to the people the greatest degree of justice, security and rational liberty, so by such a government no acts or symptoms of defiance to lawful authority are viewed with indifference. Experience shews that impunity invites aggression, and that licentiousness always derives encouragement from toleration. Feeling the force of these reflections, I think it my duty to press your attention to the daring opposition which has repeatedly, and with singular impunity, been made in the county of Columbia, to the judicial authority of the state; and to the recent indications of it which are detailed in the papers which I shall lay before you. The manner in which these offences are perpetrated, renders the ordinary means of suppressing them, in several respects inadequate. While we rejoice, and with great reason, in the general and increasing prosperity of the state, it is proper to reflect that, next to the kind providence of the Almighty, we owe this prosperity to the security with which industry pursues its lawful objects, and enjoys its fruits. It is therefore of the last importance that this security be preserved, and that the regular administration of justice which protects it be not interrupted. Whatever may be the claims or rights of contending individuals, it is their duty to meet each other in the proper courts, and peaceably acquiesce in the justice of their country; and it is equally the duty of the government to protect the citizens in the quiet enjoyment of their property and rights, and to enforce obedience and submission to the laws.

Although the great and national affairs of war and peace do not belong to our jurisdiction, yet such is their importance to our immediate welfare, and so great would be our danger if any fallacious prospects of peace should mislead us into a state of ill founded

security, that the very judicious and seasonable remarks of our patriotic President on this subject, cannot be too generally known, nor too strongly impressed. He reminds us that, "at a period, like the present, when momentous changes are occurring, and every hour is preparing new and great events in the political world; when a spirit of war is prevalent in almost every nation, with whose affairs the interests of the United States have any connexion, unsafe and precarious would be our situation, were we to neglect the means of maintaining our just rights." From the same high and respectable authority we are given to understand that under existing circumstances, "nothing short of the power of repelling aggressions, will secure to our country a rational prospect of escaping the calamities of war, or" (what would be still more calamitous) "national degradation." The measures which have been taken, pursuant to acts of this state, relative to those subjects, shall be mentioned in a future communication; and it is evident, from the preceding observations, that our attention to them is not to be relaxed.

Among other objects which will present themselves to you, there is one which I earnestly recommend to your notice and patronage. I mean our institutions for the education of youth. The importance of common schools is best estimated by the good effects of them where they most abound, and are the best regulated. The two colleges in this state have, from their extensive and increasing utility, strong claims to the care of the legislature, and it appears to me that they should be enabled uniformly to answer the valuable purposes for which they were established. Our ancestors have transmitted to us many excellent institutions, matured by the wisdom and experience of ages. Let them descend to our posterity, accompanied with others, which by promoting useful knowledge, and multiplying the blessings of social order, and diffusing the influence of moral obligations, may be reputable to us and beneficial to them.

Conscious that the sentiments which I have now expressed, are prompted by the best motives, and by an ardent desire to advance the welfare of our common country; and being persuaded that your deliberations will be animated by similar views and dispositions, I indulge the pleasing expectation, that the results of this session will correspond with the high trust and confidence reposed in us by our constituents.

JOHN JAY.

Albany, January 28, 1800.

The Legislature met at the City of Albany, on the fourth day of November, one thousand eight hundred, when they waited upon the Governor, who made the following

SPEECH :

GENTLEMEN OF THE SENATE AND ASSEMBLY,

THE great importance of the business which, at stated periods fixed by law, requires your convening at this early season, having heretofore been considered and experienced, it cannot be necessary to enumerate the various considerations which entitle it to serious attention. Connected with this is another topic, which needs only to be mentioned, to excite reflections which on such occasions, will always be seasonable and proper. It is natural that the election of a first magistrate for the nation, should divide even patriots into parties : while not intemperate, few public inconveniences result from them. But, history informs us, that when such parties, being nearly balanced, become highly inflamed, they often endanger not only the tranquility, but also the political existence of republics. It is wise to profit by the experience of others. Our governments are yet in a course of experiment : and care should be taken that it be a fair experiment, and that it be not interrupted by those tendencies to innovation which certain passions, when too fervent, sometimes produce.

Since the last adjournment few circumstances have occurred, of such a nature, as to require being recommended to your particular notice. Providence still continues to bless our country with prosperity ; and nothing remains for us, but to enjoy it with gratitude and moderation, and in our several stations to endeavor to preserve and advance the welfare of the state. To this end, prudence directs us frequently to review our public affairs, and to correct and amend whatever may appear from experience to be susceptible of material improvement.

On such a review it will probably be found, that among the different classes of public expenditures, there are some which demand more order and economy. I allude particularly to the expenses of the counties and towns, and to the manner in which they are at present incurred, liquidated and conducted. It is said, and I fear with too much truth, that in a majority of the counties, these expenses very far exceed the amount of their respective proportions of the state tax. This would not continue to be the case in so great a degree, if the accounts against them were as carefully and scrupulously admitted and audited, as those against the state ; and if they were controlled and ordered with equal notoriety, independence and responsibility. The present manner of transacting these affairs is certainly defective, and the interest of the inhabitants requires that it should be revised and amended ; and the more so, as certain boards of supervisors have, as I am in-

formed, not hesitated in some instances, to treat the statutes of the state with unequivocal disobedience.

Although our present system of taxation is far preferable to the preceding one, yet time will doubtless discover imperfections in it. The reprehensible inequalities in assessments have already been observed and complained of. Injustice, when committed under the forms and authority of the laws, is always particularly painful and disgusting, and excites emotions which are not friendly to government. I am persuaded that the result of your deliberations on this subject will confirm the public confidence in the wisdom and rectitude of the legislature.

Few circumstances are more essential to the duration of civil liberty and the well being of a free people, than that the departments and officers of their government do, on the one hand, exercise on proper occasions all the powers and authorities constitutionally committed to them; and on the other hand, that they do not exercise on any occasion powers and authorities which are not constitutionally committed to them. Notwithstanding the delicacy of the subject, I think it my duty to submit to your candid and dispassionate consideration, whether the power which has been exercised by the legislature to control the lawful operation of wills and descents in individual cases, by private acts, is not liable to such well founded objections, as that it should not in future be permitted to acquire further claims to assent and acquiescence on the ground of precedent. That I may be clearly understood, permit me to remark—

That the right lawfully to acquire, inherit and hold, as well as lawfully and freely to grant, devise and dispose of land or other property, is included among those which the constitution intended to secure to every citizen. That valuable civil privileges are by the constitution conferred exclusively on that class of citizens who are freeholders, and which privileges they lose when they cease to have lands of a certain value. That the constitution has ordained and declared, "that no member of this state shall be disfranchised or deprived of any of the rights or privileges secured to the subjects of this state by this constitution, unless by the law of the land and the judgment of his peers." That although this provision was doubtless intended more immediately for the security of citizens charged with offences, yet that it necessarily, and with still greater force applies to citizens to whom no offences are imputed. That by "the law of the land," is to be understood, the public, general, and constitutional laws of the state, equally and impartially affecting all persons and cases under similar circumstances, and to be administered and applied to those persons and cases, in the ordinary course of judicial proceeding; and consequently not a mere private act, confined in its object and operation to a particular case, and directly applied to that single case, and to the individuals interested in it, without the intervention of any judicial inquiries or proceedings whatsoever. I am not unmindful of

he undoubted authority of the legislature to grant exclusive privileges, for public purposes, to corporations, in restraint of the rights of others; and to take land from individuals, for public uses, on paying the value of it. But there have been instances, and one of recent date, where by private acts, passed expressly for the purpose, infant freeholders have been divested of certain of their lands, and trustees appointed to sell them, for their supposed benefit; whereby the nature of their property has been changed, and their civil rights, as freeholders of those lands, extinguished. Although these private acts were passed from the best motives, and with intent to serve, not to injure those infants, yet how such interferences with private property can consist with the constitution, or with the principles on which the judicial department was instituted, or with the security of property, or with the inestimable privileges which every citizen has, and ought to have, of freely and lawfully disposing of his land by his will, or by voluntarily leaving it to descend according to law, are inquiries which really appear to me to be exceedingly interesting.

On further reviewing the state of our public affairs, it will be found, that experience has hitherto evinced the propriety of placing all religious denominations on an equal footing; but the statute enabling them to incorporate, and to make contracts with, and for the support of their ministers, appears to be defective, in not having provided legal means sufficiently competent for executing those contracts with convenience and facility. The importance of this subject is strongly expressed in the preamble of that statute. It declares it to be "the duty of all wise, free and virtuous governments to countenance and encourage virtue and religion, and remove every let or impediment to the growth and prosperity of the people, and to enable every religious denomination to provide for the decent and honorable support of divine worship, agreeable to the dictates of conscience and judgment." I therefore submit to your consideration, the expediency of enabling them to cause the sums made payable by such contracts, to be assessed on the members of their respective corporations, in proportion to their taxable estates, as rated in the legal assessments, and to have the same levied, and (after the usual deduction for charges) paid to them by the public collectors.

There is another subject which in my opinion is worthy of consideration. When our constitution was formed, the rule established by it for regulating the future number of senators and representatives was founded on reasons which subsequent events and circumstances have materially altered. According to this rule, the number will continue to increase, and will become not only inconvenient, but also unnecessarily expensive; for although a seat in the legislature, is a place of honor, and not of profit, yet the expenses, however strictly regulated by this principle, will nevertheless far exceed the limits prescribed by prudence and the public good. I therefore think it proper to suggest, whether provision

should not be made by law for electing a convention, for the sole and exclusive purpose of ordaining what shall be the number of senators and representatives at future periods ; and of fixing the limits which it shall at no time hereafter exceed.

Your deliberations, gentlemen, will doubtless extend to several objects, respecting which it will be proper for me to communicate to you official information. Care shall be taken that this be done in season ; and I assure you, that nothing on my part shall be omitted, to render this session beneficial to the state, and agreeable to yourselves.

JOHN JAY.

Albany, November 4, 1800.

GEORGE CLINTON.

The Legislature met, pursuant to law, at the City of Albany, on the twenty-sixth day of January, and on the same day the Governor made this

SPEECH :

GENTLEMEN OF THE SENATE AND ASSEMBLY,

I CANNOT refrain, at this first opportunity presented me for meeting the legislature, from congratulating you upon the flourishing condition of the United States. Under an administration extensively possessing and highly meriting the public confidence, we have reason to believe that the external and mutual relations of the states will command every proper attention, and engage every proper support.

Our participation with our sister states, in the general prosperity, ought not, however, to diminish our exertions in cultivating those peculiar advantages with which we are favored by the Supreme Dispenser of all good ; and in obeying the injunction of the constitution, to recommend such matters to the consideration of the legislature, as shall appear "to concern the good government, "welfare and prosperity of the state." I feel confident that nothing in your power will be wanting for the promotion of those important objects.

The situation of our finances will demand your particular attention. Claims to a considerable amount, arising from monies borrowed and other sources, exist against the state, and have induced a resort to taxation for the last two years. These demands ought to be satisfied as early as a due regard to general convenience will admit ; and considering our resources, there is reason to believe that they could have been soon extinguished, without laying any additional burthens on our constituents, were it not for the engagement to expend in fortifications a very large sum, supposed to be due to the United States. How far this balance was originally just, or how far it will or ought to be exacted from this state exclusively, are questions which it is not within my province to decide. The proceedings under the act providing for the extinguishment of this demand, will be laid before you ; and if the public exigencies shall require a continuation of taxes, I submit to the legislature whether a revision of the system will not be indispensable in order to render assessments more equal and just ; collections more speedy and operative, and both less expensive.

In taking a review of the resources of the state, and in devising appropriate improvements, a variety of subjects will necessarily engage your attention.

The claims of dower by widows of attainted persons, have assumed so serious an aspect, that the commissioners appointed by law for their liquidation and settlement, deemed it expedient at the last session to submit them to the decision of the legislature ; and as nothing was definitively arranged at that period, a great number of suits have been commenced against persons deriving title from the state. While the honor of the state demands that all proper claims should be satisfied, an attention to public economy equally requires that the treasury should be guarded against improper or fraudulent demands. In the course of the session, this subject will no doubt receive an attention commensurate with its importance.

The benevolent views of government, in substituting to a certain extent the punishment of imprisonment instead of death, have been in a great measure realized, as far as we can judge from experience. But it may be well worthy of consideration, whether the expenses of the establishment have not been unnecessarily surcharged by confining in the state prison petty offenders, sentenced to an imprisonment exceeding a year, and whether every useful object would not be equally well attained, and at the same time a considerable expense in conveyance and maintenance saved, by a different regulation with respect to this class of offenders. When on this subject, it may be proper to observe, that as the establishment of a military guard has been deemed essential for security against escapes, it is necessary that some definite system of discipline and government should be prescribed, to give efficacy to that institution.

It is to be regretted, that the sessions of the legislature should be protracted by the consideration of claims which have been frequently decided against ; as if importunity would ensure success, and as if frequency of application would eventually weary into compliance, the attention of the legislature has been too much diverted from important objects of public policy, by applications which have been renewed from session to session. The right of petitioning is a sacred right, but its abuses ought not to be countenanced ; some remedy for this evil would be highly expedient, if the nature of the case can admit of one without a collision with an essential right of every citizen.

The provision in the act concerning slaves and servants, authorising the owners of slaves, under certain circumstances, to abandon them to the state, will prove a source of growing expense, and will require particular interference : and I feel happy in the persuasion, that the reasonable claims of individuals may be fully attended to in this case, without invading the rights of humanity, or the pecuniary interests of the state.

The situation of the salt springs also deserves your attention ; hitherto they have been a source of inconsiderable profit. In accommodating a large portion of our fellow citizens with a necessary article of life, an important object is indeed attained ; the benefits of which would, however, be enhanced, if at the same time

an additional revenue could accrue to the public ; and there is reason to believe that this would be the result under proper regulation and management.

In your deliberations on the subject of public disbursements, several subordinate points will present themselves to your consideration. As the duties of the five judges of the supreme court, have for some time past been performed by a less number, an adequate compensation for this extraordinary service appears to be just and reasonable, and can be made without exceeding the usual expense of the department. It has been suggested, that the imposition of certain fees upon lucrative commissions and valuable grants would defray the expenses of the secretary's office ; and as the laws of the United States have imposed the duty of reviews on the brigade inspectors, an abridgment of the expense and labor, and consequently a reduction of the compensation of the adjutant-general, may be found expedient.

The importance of a well regulated militia, as most congenial with the spirit of our free government ; as in a great measure superceding the necessity of standing armies, and as augmenting the power and respectability of the nation, is so obvious and so great, that too much attention can hardly be devoted to this inestimable object. A general revision of the system appears to me to be essential. Contrarieties exist between the laws of the United States and this state, which impede and embarrass the proceedings under them. A sufficient discretion is not left in the formation and organization of new corps, or in the reduction of those already established, according to circumstances ; and the law requires the aid of additional sanctions to render it efficient. It may be proper here to mention, that the state has expended large sums in the purchase of cannon, small arms and military stores, and that no adequate provision is made for their due preservation ; and unless this is speedily and effectually done, those expenditures will be in a great measure rendered useless, as will particularly appear by the report of the commissary of military stores, which will be delivered to you. Our constitution contemplates the establishment of well supplied magazines and arsenals, in every county of the state. If this cannot be literally complied with, it is surely our duty to endeavor to conform to the spirit of the provision.

I have directed the secretary to lay before you the proceedings of the convention, and the census taken under the authority of this state. New apportionments of the representation in the senate and assembly will be required under them ; as well as an alteration in the districts for electing representatives to the congress of the United States, in consequence of our increased representation in that body.

When I observe, that one of the great districts and some of the counties are only partially represented, owing to vacancies occasioned by death or otherwise, and that no provision exists for sup-

plying the deficiencies, I cannot but regret that this subject has not hitherto received the attention of the legislature.

The advantages resulting to the agricultural and commercial interests of the state, from facilitating the means of communication between different parts of the country, have been heretofore acknowledged in the liberal grants of the legislature. Large sums have been granted, for making canals, improving our navigable waters, erecting bridges and opening roads ; and the attention of the government has recently been particularly drawn to the incorporation of turnpike companies. The superintending and fostering care of the legislature is still necessary to extend the public utility of pursuits of this nature ; but if future incorporations of turnpike companies should be deemed expedient, it may be worthy of consideration, whether former ones have been sufficiently guarded, in prescribing the original laying out of the roads, in a manner most subservient to the public convenience, and whether a summary mode ought not to be prescribed, to exact a compliance from those companies with the intentions of government.

The system for the encouragement of common schools having been discontinued, and the advantages to morals, religion, liberty and good government arising from the general diffusion of knowledge being universally admitted, permit me to recommend this subject to your deliberate attention. The failure of one experiment for the attainment of an important object, ought not to discourage other attempts.

Such other matters as may be deemed worthy of your notice, will be communicated in the course of the session, as usual, by message.

GENTLEMEN,

When we reflect on the rapid progress of our population : on the extension of our settlements : on the flourishing condition of our agriculture and commerce : on the progress of religion, literature and useful knowledge ; and on the general prosperity of our fellow citizens, we cannot but acknowledge with humble gratitude the benign dispensation of Divine Providence in granting us a free representative government, which may be considered as the principal source of the distinguished blessings we enjoy. Let it then be our care, as it is our duty, to cherish the principles of a government which has produced so much good. Let us guard against every encroachment or deviation, and unite in every effort to render it perpetual.

GEO. CLINTON.

Albany, January 26, 1802.

On the twenty-fifth day of January, one thousand eight hundred and three, the Legislature met at the City of Albany, when, after having elected the Officers of the Senate and Assembly, the Governor opened the session with the following

SPEECH :

GENTLEMEN OF THE SENATE AND ASSEMBLY,

I have the satisfaction to inform you, that nothing has occurred, in the recess of the legislature, to disturb the public tranquillity or to impede the growing prosperity of the state. For a continuation of these inestimable blessings our unfeigned gratitude is due to the Supreme Disposer of all events. You must, however, have heard with regret of the late unwarrantable conduct of the Spanish Intendant at New-Orleans, calculated to deprive the people of the United States of the free navigation of the Mississippi; but notwithstanding the sensibility so generally and justly excited on this occasion, there is every reason to believe that the wise and temperate measures adopted by the president will remove all cause of complaint : Should this not be the case, and a more vigorous course become proper and necessary, I feel confident it will be pursued ; and that this state, which so eminently exerted itself in the establishment of American Independence, will display equal firmness and patriotism in vindicating our national rights, from whatever quarter they may be assailed.

Our fellow-citizens, attached to our happy constitution from a conviction that it is wisely calculated, under Divine Providence, to ensure all the essential benefits of civil society, without any unnecessary abridgment of their natural rights, generally manifest a disposition to pay a due obedience to the laws, which they justly consider as the expression of their own will, and to give to government that genuine energy and support which are only to be derived from their confidence and affection. It is also with pleasure I mention, that the duties assigned to the different departments, as far as my observation extends, continue to be performed with wisdom and fidelity.

With respect to the various matters committed to my more immediate direction, I flatter myself you will find them executed in a manner that will meet your approbation. Treaties have been held with the Oneida and Seneca nations of Indians, and the objects contemplated by the laws authorising those negotiations, accomplished. Copies of the treaties will be laid before you, with an estimate of the sums which remain to be provided for, to comply with the stipulations contained in them. It may be proper to remark, that as no provision was made for the payment of the sums mentioned in the agreement entered into with the Oneidas, under concurrent resolutions of the Senate and Assembly of last session, nor for defraying the expenses of the treaty directed to be

held with that nation, it became necessary to supply these deficiencies by private credit. I avail myself of this first opportunity of fulfilling my engagement to the Seneca Indians, by recommending that legislative provision be made for securing to them certain privileges specified in the treaty with that nation. I considered their claims reasonable, and would have confirmed them, had not doubts existed respecting my authority.

The annual report of the commissary of military stores, with the papers accompanying it, will communicate all useful information relative to that department, and disclose to you how far the different services enjoined on him by the act of last session, designating his duties, have been performed. Notwithstanding I have reason to believe this business has been conducted with a strict regard to economy, yet it is probable the expenses incurred may exceed the sum at which they were estimated, owing to the extensive repairs which the arsenals required, and to the ruinous condition in which the small arms and accoutrements were found; as it could not have been conjectured, that whilst large sums were expending in defensive preparations, articles of the first utility would have been so much neglected. This effort to put our magazine of military stores in a state of repair is an useful one, but as it will appear from the returns that the supplies fall far short of those enjoined by the constitution, it would be injustice to the wisdom of the legislature, to doubt that such farther appropriations will be made as the state of our treasury may warrant, for a more perfect compliance with a constitutional injunction dictated by a regard for the public safety. The danger of placing a dependence on these supplies from abroad, and the difficulty of procuring them when most wanted, point out the expediency of embracing the present favorable opportunity which peace affords, for replenishing our magazines: In doing this, however, a preference ought to be given to articles which the ingenuity and industry of our own citizens can furnish, as thereby an additional object will be attained; encouragement will be given to American artizans.

With the returns of the reviews and inspections of the last year, I shall also cause to be laid before you those of the preceding one; by a comparison of them you will have the satisfaction to discover an increasing attention to duty, honorable to the militia, and at the same time evincive of the beneficial effects produced by the amendments made at the last session, to the militia law. It is submitted to your judgment to devise such farther improvements in the system as shall be best calculated to promote discipline and encourage military ardor.

Although it was to have been expected crimes would have multiplied with the increase of our population, it is with peculiar pleasure I observe, that from the documents in my possession it may be inferred with a degree of certainty, that for the last three years their number has been gradually diminishing. This circum-

stance, whilst it is highly gratifying to philanthropy, and reputable to the community, demonstrates the wisdom of the alterations made in our criminal code, by the rejection of sanguinary punishments and the substitution of a system more congenial with the mild spirit of our free government.

This, with other wise improvements which have from time to time been made in our laws, and the recent judicious revision and amendment of them, have given to our jurisprudence such a degree of perfection as to induce a belief that any material alterations are at present unnecessary. Besides the obvious advantages attending the stability of laws, it is essential to their due observance, that they should be generally known and accurately understood; but this is impracticable whilst they are subject to frequent changes, since time is required to ascertain by judicial decisions, the legal import of sections admitting of different constructions; and such are too frequently to be found even in amendatory statutes. Should you, gentlemen, concur in this opinion, a greater portion of your time than usual may be devoted to other objects.

The improvement of our fiscal concerns will naturally present itself to you as of superior moment, and the details contained in the comptroller's annual report, will assist in your deliberations on this important subject by suggesting measures for rendering the funds of the state more productive of revenue. The salutary effects resulting from the economical system and judicious arrangements of the general government afford an instructive lesson; and if we pursue an example of such high authority and so worthy of imitation, there is reason to believe that the finances of the state may be placed in a condition competent to all the exigencies of government, without the necessity of recurring to taxation.

The tract of land belonging to the state adjoining the Niagara river, including that ceded by the recent treaty with the Seneca nation of Indians, comprehends the carrying place and line of communication between the great western lakes. This and other interesting considerations arising from its frontier situation, render it highly important that measures be taken for its speedy and regular settlement. The interest of the state also requires more effectual measures than have hitherto been adopted to prevent wastes and intrusions on the public lands. It is to be feared that the indulgent conduct of government has only tended to increase these pernicious practices. Most of the offenders are strangers, ignorant of our laws, and it is time they were taught that transgressions are not to be rewarded with favors. Wholesome settlers will not risk their labor in improving lands held by so unjustifiable and precarious a tenure, and sound policy as well as justice forbids our encouraging those of a different description.

There is perhaps no object connected with the internal commerce of the state, of greater consequence to its prosperity, than the navigation of Hudson's river, and under this impression the

legislature have at different times granted considerable sums which have been applied to its improvement and extension. It is obvious, however, that the advantages to be derived from these expenditures can be but of comparative small value, unless the public aid shall be extended to the removal of the obstructions below this city, which greatly impede the passage of the river, and are found to be annually increasing. If it should be deemed expedient to patronize this interesting undertaking, you will perceive the propriety of directing preparatory measures for ascertaining the best manner of accomplishing it, and of committing its execution to agents of your own appointment, as attempts on an injudicious plan might, without effecting the object, be productive of injurious consequences.

Some defects which had been discovered in the laws establishing turnpike road companies, were suggested to the legislature at the opening of the last session; but although the evils apprehended from these defects were guarded against in the incorporating acts passed subsequent to that period, yet no remedies were extended to the imperfections of the then existing laws; and, as in these, no mode is prescribed to exact a compliance from the companies with the intentions of government, the trouble, expense and hazard of vindicating public rights devolve on individuals. It is submitted, whether it would not be expedient to confer the power of enforcing these laws on some of the established officers, at the public expense, and at the same time to prescribe the manner in which such power shall be executed. The difficulties which occur in devising amendments to acts of this kind, without invading corporate rights, ought to serve as an admonition to great care and circumspection in framing future ones. How far it will be prudent to increase the number of these incorporations, before the advantages to be derived from them by the public, shall be more fully ascertained by a course of fair experiment, is a question worthy of your serious consideration.

The establishment of common schools has at different times engaged the attention of the legislature; but although its importance is generally acknowledged, a diversity of sentiment respecting the best means has hitherto prevented the accomplishment of the object. The diffusion of knowledge is so essential to the promotion of virtue and the preservation of liberty, as to render arguments unnecessary to excite you to a perseverance in this laudable pursuit. Permit me only to observe, that education, by correcting the morals and improving the manners, tends to prevent those evils in society which are beyond the sphere of legislation.

GENTLEMEN,

I shall occasionally communicate, by message, such other matters as may appear to deserve your notice, without any longer at this time, than to assure you of my

to render your session agreeable ; and that I shall always consider a cheerful co-operation with the legislature, in every measure calculated to promote the honor of the state and the happiness of our constituents, among the first of my duties.

GEO. CLINTON.

Albany, January 25, 1803.

The Legislature met at the City of Albany, on the thirty-first day of January, one thousand eight hundred and four, and the following SPEECH was made by the Governor, on the same day :

GENTLEMEN OF THE SENATE AND ASSEMBLY,

It must be a source of peculiar satisfaction to you, as the representatives of a free people, when assembled to deliberate on their political welfare, to find the state in a prosperous and flourishing condition ; and our fellow-citizens tranquil and happy under the benign influence of mild and wholesome laws ; and if we advert to the situation of our national concerns, it will afford additional gratification to reflect, that by the blessing of Heaven on the wise and pacific procedure of a virtuous administration, the calamities of war have been averted, the rights of the union maintained, its commercial privileges extended, and its territories enlarged. It is not, however, my province on this occasion, to expatiate on the immense value and importance of the advantages thus honorably acquired.

But notwithstanding this pleasing aspect of our public affairs, we have had reason to lament a partial interruption of prosperity, and the loss of many valuable members of the community, by the recurrence of malignant fever in one of our principal commercial cities. The evils attending this dreadful calamity, both as they affect the lives of the citizens, and the commerce of the state, are so distressing, and of such magnitude, as to demand the serious and unremitting attention of the legislature. Whatever diversity of opinion may be entertained by professional men, with respect to the origin and nature of that disease, experience and observation seem to evince, that in order to prevent its introduction and spreading, regard must be had, not only to the vessels visiting our ports, but also to the local condition of our cities : for, as it is a fact too well ascertained to admit of a doubt, that crowded and filthy vessels, whether they derive infection from foreign countries, or generate it on their voyages, are capable of communicating it to certain places predisposed for its reception : so it is equally certain, that situations in the immediate vicinity of those places, although exposed to that infection, are exempt from

its influence ; and hence it would appear evident that there must exist some latent cause in the present condition of those cities which have lately been subject to pestilential fever, peculiarly favorable in its propagation. Under these impressions, it is submitted to your wisdom, whether, besides revising and improving the present precautionary arrangements for preventing its introduction from abroad, some efficient regulations ought not to be prescribed and enforced, for purifying the city of New-York, and restoring it to its former state of salubrity : for whilst it is our duty humbly to implore the interposition of the Almighty, to avert these afflicting dispensations, it is also highly incumbent on us to be in the diligent use of those subordinate means, which his merciful providence may have ordained for our preservation.

During the recess of the legislature, two vacancies have happened in the senate of the United States, by the resignations of the senators from this state. One of these took place at an early period of the present session of congress ; in that instance, the public service required the exercise of the constitutional power vested in me of making a temporary appointment : In the other, it being of a recent date, my interference was deemed inexpedient. It is now your duty to fill the vacancies, and to this end the necessary documents will be delivered to you.

I have the satisfaction to lay before you a resolution of the congress of the United States, proposing an amendment to the constitution, respecting the election of president and vice-president ; and as one of a similar nature has been for two years successively recommended by the legislature of this state, I feel confident you will receive this communication with peculiar pleasure, and that so desirable and salutary an improvement will meet with your early sanction.

The money appropriated at the last session to be expended under my direction for procuring arms and military stores, has been applied to that purpose on advantageous terms. The different articles purchased are designated in the annual report of the commissary of military stores, with the prices annexed. Notwithstanding this valuable addition, and the several useful improvements recently made, you will nevertheless perceive the expediency of such further appropriations as the state of the treasury may without inconvenience admit, for augmenting our supplies, particularly of small arms ; and for the erection of a magazine in the vicinity of the city of New-York, and of two additional arsenals, one in the middle, and the other in the western district. The public will be sufficiently accommodated if these are constructed on a contracted plan, and it is presumed that the moderate sum requisite for this service may be replaced, if it be deemed expedient, by the sale of a portion of the lands set apart for military purposes.

As you must individually have observed the laudable spirit of the militia in the different parts of the state, manifested by their attention to duty and improvement ; and as no material defects have been discovered in the laws relative to them, it is unnecessary for me to make any other remarks than such as will be found in the Adjutant-General's return. It may be proper, however, to remind you, that an act, passed at the last session of congress, prescribes regimental chaplains, and certain staff-officers, which are not comprehended in our present militia establishment, and that legislative provision will be necessary to authorize their appointment.

The Surveyor-General will present you with a detail of the proceedings, under the act directing the survey and sale of the unappropriated lands ; from which you will discover the progress made in that business, and be able to determine how far the advantages contemplated by the mode prescribed for conducting these sales, have been realized, and whether useful alterations may not be adopted.

The annual report of the comptroller will furnish you with a correct statement of our finances, and with such useful observations as experience has dictated for their improvement. It must be gratifying to observe, that besides meeting the liberal contributions which have been made for the promotion of literature, and for establishments of public utility, our revenues have been competent to the support of our civil list, and for all the other public exigencies ; and there can be no reason to doubt that by a continued attention to those principles of economy, which are most congenial with the spirit of our excellent government, the extinguishment of all the demands against the state, arising from former anticipations, may be speedily accomplished without the aid of taxes.

Notwithstanding the great portion of time and labor which has for a series of years past been devoted to the investigation of the claims of individuals, principally for services during the revolutionary war, they do not appear to have diminished, and the public deliberations continue to be embarrassed with them at every new session. From the nature of these services and the length of time that has elapsed, it is difficult either to substantiate just claims, or to guard against improper ones ; and to these causes may be ascribed the occasional admission of some, which had been repeatedly rejected at previous sessions : And as the success of one improper application furnishes a precedent for others, it is impossible to form a rational conjecture of what may be their number and extent. It therefore appears essential to the public interest, that means should be devised for effecting the final adjustment of these reiterated claims, within a given period of time, upon certain fixed principles calculated to dispense equal justice : For besides the inefficacy of the present mode, and the heavy burthen it imposes on the le-

gislature, it has frequently happened from the pressure of private business, that the passage of important public bills has been retarded till so near the close of the session as not to leave time for a deliberate and careful revision of them. I might mention other inconveniences resulting from the same cause, but as these do not come within the cognizance of the executive, I forbear enumerating them.

Although the management of our external relations is committed exclusively to the general government, it is nevertheless the duty of the individual states, by every proper mean, to facilitate and give effect to the arrangements which may be devised for securing the tranquility and happiness of the nation. The neutral position taken by the United States, amidst the wars of Europe, has elevated our character, and increased our national prosperity; and as the citizens of this state have an extensive commercial intercourse with the conflicting parties, and the unwarrantable acts of individuals have frequently disturbed the repose of empires, it is peculiarly incumbent on us to cherish a spirit corresponding with our neutral situation, and to inculcate on our constituents the necessity of attending to the wise admonitions of the executive of the union, "to cultivate the friendship of the belligerent nations, by every act of justice and innocent kindness."

The detention of our citizens on board of vessels in our own ports by the subjects of other governments, will perhaps require some more energetic remedy to be put in the hands of the magistracy than exists at present: And it may be proper to mention, as connected with this subject, that as it is questionable whether the waters in this state, between Long and Staten-Islands, and south of the bounds of New-York, are included in any county, some appropriate provision will be necessary to obviate the evils arising from this uncertainty of jurisdiction.

Several matters which were under consideration at the last session, and in which some progress was made, remain unfinished: Of these, the establishment of common schools, and the improvement of the navigation of Hudson's river in the vicinity of this city, are of the first importance.

The competency of our laws for all the important purposes of good government, and the faithful administration of justice under them must necessarily diminish the ordinary objects of legislation; and as I have nothing further of special moment to recommend to your notice, you will commence this session with the pleasing prospect of being relieved from your public labors at an earlier period than usual: And I entreat you to be assured of my best endeavors to facilitate the dispatch of business, and to render your deliberations agreeable.

GENTLEMEN,

If we review the present happy condition of our country, and reflect on the many distinguished blessings we enjoy, as well as on the numerous evils incident to other governments, from which we are exempted, there will be found abundant reason to rejoice, that we live in a republic thus highly favored of heaven, and under a social compact from which so many benefits result : And whilst these considerations should animate us with exalted sentiments of patriotism, and with a lively zeal to cherish the fundamental principles of our political institutions, they ought above all to inspire us with becoming gratitude to the great ruler of nations, on whose favor all our happiness depends.

GEO. CLINTON.

Albany, January 31, 1804.

MORGAN LEWIS.

The Legislature met at the City of Albany, on the sixth day of November, one thousand eight hundred and four, for the purpose of choosing Electors of President and Vice-President. On the same day the Governor made this

SPEECH:

GENTLEMEN OF THE SENATE AND ASSEMBLY,

You were adjourned to this early day to enable you to execute a trust important and interesting as any that can be reposed in the representatives of a free people. The period for which the president and vice-president of the United States were respectively chosen, will expire with the third of March next. It becomes your duty, therefore, in obedience to the constitution of the general government, the act of congress, and that of the legislature of this state relative thereto, to appoint, during the present meeting of the session now about to be opened, the legal number of persons duly qualified to elect to them successors to those dignified stations. The selection lies exclusively with you; and in making it, that you will seek for characters of approved integrity, void of prejudice, firmly attached to the principles of our government, and the true interests of our common country, is not to be questioned.

On an examination of the laws above alluded to, it will be found that no provision has been made for the contingency of an elector's absence from the meeting enjoined. This is a defect, the propriety and manner of remedying which, I submit to your discretion.

It is with pleasure, gentlemen, I announce to you officially the ratification, by the competent number of states, of the amendment proposed during the last session of congress, to the first section of the second article of the constitution of the United States, so modifying the mode of voting for president and vice-president as effectually to prevent a repetition of the unpleasant scene exhibited at the last election of those officers.

During the recess certain concurrent resolutions of two houses of the legislature of the commonwealth of Massachusetts, having for their object an alteration of the third clause of the second section of the first article of the constitution of the United States, have been transmitted to me by the executive of that state. A proposition from such high authority merits the most respectful consideration, and (should the clause alluded to, be found, on examination, incorrect in principle or inconvenient in practice) will,

I trust, receive, gentlemen, your cordial support, provided no surmountable barrier presents itself. How far this is the case present, and will so continue till the year 1808, you will be enabled to determine by examining this clause in connection with fourth of the ninth section of the same article, and the fifth art. The resolutions will be laid before you.

The mission of General Armstrong, to the court of France occasioned a vacancy in our representation in the Senate of United States. Congress is now in session, and as there is reason to believe that interesting discussions will early take place in national councils, I presume, gentlemen, you will consider filling such vacancy as meriting a place among the first objects of your attention.

A circumstance much to be regretted has taken place since last adjournment. Some convicts in the State-Prison set fire to building, and though the utmost exertions were employed to extinguish the flames, they were not successful until one of its wings was nearly consumed. On a consultation of the inspectors, the judges of the supreme court, and the mayor and recorder of the city of New-York, it was an unanimous opinion that the public interest demanded the immediate repair of the damage sustained and as there was no fund from which the sums necessary to defray the expense could be drawn, it was recommended to the inspectors to raise them on their individual credit: this they have done, and the building has been repaired in the most economical and effectual manner, and rendered much securer against future similar disasters than it was in its original state. In addition to the repairs, they have found it necessary to erect, at a small expense, an additional workshop. The amount of disbursements for these objects is fourteen thousand four hundred forty-two dollars fifty-one cents, for the reimbursement of which they now apply to the justice of the legislature. They further state, that the institution is embarrassed by debts contracted by their predecessors in office amounting to \$8,600 and 30 cents. of this sum \$4,000 has been paid from their private purses, which they request may be refunded to them, and provision made for discharge of the balance. An institution so honorable to the justice and humanity of the government, will, it is confidently hoped, continue to enjoy the patronage of the legislature.

A bill drawn at the instance of the inspectors proposing additional penalties for the greater security of the prison, and of internal government, will be presented to the legislature. The infliction of capital punishment in certain cases will be found among its provisions. How far such an alteration in the criminal code may be deemed a departure from the principles on which the institution is founded, and how far it would be consonant to justice and legal policy, will require, gentlemen, your serious and deliberate consideration. If it be an element of the political theory on which our government is erected, that it is vested with no rights but such

are derived from the individuals composing the community, and it be admitted that individuals have not the right to dispose of their own lives, it may be reasonably doubted whether the government can justify the infliction of capital punishment in any case not sanctioned by the Divine Mandate. Its policy also may be doubted. The principal object of punishment is the prevention of crime. To him who is deprived of liberty for life, death can have but few terrors, and the efforts of despair are seldom enfeebled by the apprehension of consequences. While on this subject, gentlemen, permit me to suggest to you the propriety of a revision of your system of criminal jurisprudence: certainly great improvements have been made in it: it is, however, still far from being perfect, and is susceptible of further amendment. It is of the essence of every good system that there be a due apportionment of punishment to crime, estimating the latter by its degree of moral turpitude, and its consequences to society. Commencing with the lower order of felonies, we shall find an unwarrantable difference in the degrees of punishment annexed to *grand* and *petit* larcenies, and yet a cent more or less constitutes the essential difference between these offences. This is not the only objection. The administration of justice being committed to more than thirty judicatories, offences of the same grade are punished more or less severely according to the different ideas of different magistrates: arising from the too great latitude of discretion vested in the courts of justice. If the calendars of convictions and judgments are examined, the same offences, probably accompanied with the same circumstances of atrocity, will be found punished by confinement at hard labor in the state-prison for periods, varying from one to ten years; they may vary from one to fourteen years. While so vast a disproportion exists between the punishments annexed to these different species of larceny, where in the degrees of criminality not a shade of difference is to be perceived, simple and compound larcenies are subjected to the same punishment, though the latter generally evince greater depravity, and ever produce greater injury to society than the former. Thus no distinction is made between forcibly entering a dwelling and committing a larceny therein, where not done burglariously, and feloniously taking the property of another when exposed in the highway.

Ascending from the lowest to one of the highest species of felony, a similar defect presents itself. In the crime of murder, there are various degrees of turpitude, but no discrimination of punishment. A deliberate and premeditated killing, with express malice, is certainly more criminal in the eye of religion and morality, than where the malice arises by legal implication alone. So murder committed in the perpetration, or an attempt to perpetrate, any of the higher offences, is certainly more criminal than where it is the consequence of an intended trespass, or a mere want of due caution. These distinctions, I am persuaded, accord with public

sentiment, as must be evident to all those who have witnessed the embarrassment of jurors, when directed that the law imposes upon them to find one guilty of murder, whom they verily believe never intended to commit it. This is placing them in a delicate situation, and offering violence to tender consciences.

The crimes of forgery and counterfeiting are also susceptible of a classification of their various species. A detailed plan of such an improvement would far exceed the proper limits of this address. I shall therefore reserve it for a future occasion.

In the event of an interruption of the harmony which has subsisted between the United States, and the maritime powers of Europe, we cannot but look with anxiety towards the defenceless state of our principal sea port. To afford it complete protection against an invading force, would require an expense beyond the ordinary resources of the state, and is an object emphatically appertaining to the general government. As far as it may be effected by militia arrangements, it is certainly our duty to attempt it. I shall for this purpose, in the course of the session, submit to your consideration a plan for organizing a brigade of artillery, and corps of Engineers, to be provided with a competent park of heavy field artillery, howitz, mortars, and the necessary apparatus for the use of hot shot, which may afford protection against single ships, and even small squadrons. An estimate of the expense will also be submitted.

I cannot conclude, gentlemen, without calling your attention to a subject which my worthy and highly respected predecessor in office, had much at heart, and frequently I believe presented to your view, the encouragement of Literature. In a government resting on public opinion, and deriving its chief support from the affections of a people, religion and morality cannot be too sedulously inculcated. To them science is an handmaid; ignorance the worst of enemies. Literary information should then be placed within the reach of every description of citizens, and poverty should not be permitted to obstruct the path to the fane of knowledge. Common schools under the guidance of respectable teachers should be established in every village, and the indigent be educated at the public expense. The higher seminaries also should receive every patronage and support within the means of enlightened legislators. Learning would thus flourish, and vice be more effectually restrained than by volumes of penal statutes.

With grateful acknowledgements to a beneficent God for the large portion of national prosperity he continues to bless us with, permit me, gentlemen, to assure you of my ready co-operation in every exertion you shall make to add to the mass of general happiness.

MORGAN LEWIS.

Albany, Nov. 6, 1804.

The two houses of the Legislature of this State met on Tuesday, the twenty-eighth of January, at the City Hall of the city of Albany, when his Excellency the Governor delivered the following

SPEECH :

GENTLEMEN OF THE SENATE AND ASSEMBLY,

SINCE last I had the honor of addressing you within these walls, occurrences have arisen, involving the dearest interests of our country. Our exterior relations have assumed an aspect threatening to that tranquility, the basis of national prosperity, we have so long enjoyed. Principles unknown to the maritime law of nations have been adopted and enforced in the prize courts of some of the belligerent powers of Europe, repressive of our commercial enterprise and destructive of a most important branch of our foreign trade. Violations of territorial rights, and breaches of national faith solemnly pledged, have swelled the catalogue of our wrongs. The issue of these dark forebodings is as yet hidden from us. Should the result be open hostility, it behoves us to place ourselves in that state of preparation, which shall preserve our rights and protect our honor. In the event of war, the possession of our sea ports would be a leading object of military achievement. The one which forms the depot of the surplus product of the agriculture and commerce of this state, is, of all others, the most unprotected. On this interesting subject, representations have been made by the corporation and merchants of the city of New-York to the general government. I have also written to the president of the United States. But, from the amount of the appropriation proposed to be made for the fortification of harbours, by a recent report of a committee of the house of representatives, nothing very efficient is to be looked for from that quarter. It remains then, gentlemen, a question for your consideration whether in this state of things, you will not make an effort towards the protection of the key of your state, and the seat of your wealth. The expense will certainly be great. It may, however, by judicious management be rendered so gradual as to be little oppressive. Guided by the report before mentioned, we are led to the conclusion, that the federal administration contemplate a defence of our harbours by gun-boats principally. These may form an important item in a general plan ; but, in my conception, can only be effectual when acting in concert with land batteries. Should it be thought advisable to commit this subject, I will lay before the committee such information and plans as I am possessed of. Meanwhile I cannot omit calling to your recollection, gentlemen, the act of the 28th of March, 1800 ; by which the state stands pledged for the expenditure of a sum in fortifications equal to that assumed by the United States in the debt of this state. The amount of that assumption was one million two hun-

dred thousand dollars ; of which the state subscribed one million one hundred and eighty thousand seven hundred and sixteen dollars sixty-nine cents—equal in specie, upon the principles of adjustment established by the act of congress of the 15th of February, 1799, to the sum of seven hundred and sixty-eight thousand three hundred and twenty dollars fourteen cents. In part satisfaction of this debt, the state has received a credit on the books of the treasury of the United States, for one hundred and thirty-six thousand five hundred and thirty-three dollars and eighty-two cents, expended previous to the passing of said last mentioned act, and is entitled to a further credit, for expenditures subsequent thereto, of one hundred and seven thousand seven hundred and nineteen dollars seventy cents (which I have directed the comptroller to adjust with the secretary of the treasury of the United States) leaving a balance still to be expended by the state of five hundred and twenty-four thousand and sixty-six dollars seventy cents, to entitle her to a discharge from all demands on the part of the United States.

Next in importance to the defence of our chief city, is the preservation of the health of its inhabitants. It has pleased the sovereign disposer of events, in the dispensations of his providence, to permit pestilence again to visit them through the course of the last autumn. The cause of this dreadful scourge being unascertained, it is difficult to say what measures should be resorted to, to prevent its repetition. On this subject the board of health, whose zeal and exertions do honor to their humanity, and justly entitle them to the meed of public applause, can probably best advise. Should it require legislative aid, it doubtless will be afforded. And it is confidently hoped that the burthen of averting a great national calamity, affecting the interests of a whole community, will not be permitted to rest solely on a meritorious portion of it.

During the last recess I have had an opportunity of reviewing and inspecting a considerable section of the militia, whose military improvement and soldiery deportment far exceeded my most sanguine expectations. Such has been the progress of many regiments, that they are capable of performing several important evolutions, with a celerity and precision that would not disgrace regular troops ; the greatest defect met with, particularly among the inhabitants of the new settlements, is the want of arms. Many of our hardiest and most robust citizens are destitute of the means of procuring them. And where this is not the case, the country does not furnish a number sufficient for all those whose pecuniary circumstances would enable them to purchase. Nor are the arms they have, such as they should be. Numbers of them are in bad order, from the want of skilful workmen to keep them in repair. Various, also, in sort and size. A circumstance which in time of actual service would be productive of great embarrassment. A difference of caliber alone, from a consequent variety required in the size

of cartridges, caused inconveniences during our revolutionary war, too serious ever again to be hazarded, without incurring the imputation of criminal neglect. The only remedy for the evil which promises to be effectual is, to arm the militia at the expense of the state. Many are the advantages which would result from the measure. All would become contributors towards the general defence. The arms might be of one stamp; and nearly of the same quality; and in case of invasion, we should not be destitute of an indispensable mean of self preservation. Should you, gentlemen, resolve on this measure, the preferable methods of procuring and preserving them are to be considered. To import them from abroad, in the present convulsed state of Europe, is probably impracticable. And were it otherwise, there are in my opinion, irresistible inducements to give a preference to home manufacture. We shall insure an exemption from impositions which have been heretofore practised upon us. Possessing the crude materials within ourselves, we shall, under no circumstances, render an essential mean of defence precarious from hostile interruptions of our commerce. We shall give encouragement to our own artisans, and promote the home consumption of staple commodities, of which our rapidly progressing industry promises ere long to produce quantities which shall seek a foreign market in vain. In preference to contracts which are ever the fruitful source of controversy, I should recommend the establishment of a manufactory under the direction of proper officers of the government, upon such a scale as the resources of the state shall justify. With attention and economy, this mode promises to be least expensive and most effectual. Virginia, I am informed, has such an establishment, where five thousand stand of small arms are annually produced, at an average expense of not more than ten dollars per piece. When a sufficient number are provided, they may be distributed among the different regiments, to be deposited in an armory to be erected in some central position within the limits of each, under the charge of an armorer, provided and supported at the expense of the county. On field days they might be delivered for use, on the responsibility of the proper officers, to be returned as soon as the parade shall terminate.

Another defect in our military equipment is, the almost universal want of experienced drummers. The drum is all-important in the day of battle. It must frequently be resorted to as the only mean of announcing to the troops intended movements, and may thus decide the fate of an army. I submit to you, gentlemen, whether measures ought not to be adopted, which shall insure a competent number of persons skilled in the martial exercise of that instrument.

From the returns of the commissary of military stores, it appears that the whole park of brass field artillery belonging to the state, consists of but sixty-three pieces, the heaviest of which are six pounders. We have already, including the two regiments in

the city of New-York, fifty-three companies of artillerists, and there ought to be at the least two pieces in a company. The two regiments in the city of New-York, if ever called on to act against shipping, should be provided with pieces of a heavier description. That they may be accustomed to the use of them, the immediate purchase of two light brass twenty-fours, weighing about eighteen hundred each, two medium twelves, and two eight inch howitzers, would be advisable. The probable cost will be about eight thousand dollars. A supply of ammunition it appears is much wanted.

For the accomplishment of these various objects I conceive an appropriation of one hundred thousand dollars per annum, may be made with little, if any, inconvenience. On looking into the fiscal department, it will be found, that the ordinary revenue of the state for some years to come, will fall little short of three hundred thousand dollars per year; that the ordinary expenses, on an average of four years past, do not exceed one hundred and sixty thousand, leaving an annual surplus of one hundred and forty thousand dollars. As a considerable portion, however, of this income arises from debts of individuals, in the payment of which, there is little punctuality, the actual receipts at the treasury cannot be calculated to exceed a sum which would, leaving a sufficiency for contingencies, warrant an appropriation from the surplus of ordinary revenue, of more than forty thousand dollars per annum. The deficiency of sixty thousand dollars, may be derived from the avails of a semi-annual state lottery, or such other sources as the wisdom of the government shall point out.

In the course of examination into this department of the government, I observe demands against individuals of very long standing, which ought in some way to be disposed of.

The collection of debts due to the state, particularly on the sale of lands, in ordinary course of judicial proceeding, is dilatory to the one party, and expensive to the other. The propriety of devising a mode less exceptionable to be applied to all further contracts, merits consideration.

Our statute book is annually swelled to an useless size by the insertion of private acts. Those for the incorporation of turn-pike companies occupy many pages. Frequent revisions of the laws might be avoided, and a considerable saving in the expense of legislation effected, by excluding them, and by establishing general principles on which all such companies shall in future be incorporated.

The propriety of auctioneers holding appointments under the government, I have long questioned. There may be substantial reasons for the practice, but I confess I cannot discover them. It certainly is liable to many objections. It is a source of patronage and favoritism unfriendly to the republican system. It deters individuals, who engage in this line, from making those permanent establishments, calculated to beget that ability, punctuality, and consequent respectability, which will ever prove the surest pledge

of a faithful discharge of the various trusts confided to them. I cannot but believe that the business would be conducted more to the advantage of the community, and the benefit of the treasury, to be laid open to every one who chose to engage in it, and could give the required security, than by continuing it in that precarious state, where the slightest variations in party, or superiority in intrigue, may in a moment deprive a family of its bread.

In the discharge of a highly important executive trust, I have been constrained to refer, gentlemen, to your consideration two cases of an unpleasant, though serious and interesting nature. They are cases of murder; each attended with circumstances calculated to excite indignation. They will, notwithstanding, receive, I trust, a candid and dispassionate examination. Stephen Arnold, was convicted at a court of oyer and terminer, held for the county of Otsego, before the chief-justice. No one more highly estimates the talents, learning, and judicial decisions of this gentleman, than I do. Few lawyers, if any, are more generally correct in their opinions. Yet in the hurry of the business of a circuit, where little time is afforded for reflection, that accuracy cannot be expected, which is usually the result of more deliberate inquiry. This reflection strengthened a first impression, on reading the report, that the case was new, and involved questions of law meriting further investigation. The result of my examination is, that no case, precisely similar to this in all its circumstances, ever before received a judicial decision; at least that none is reported. It must rest then upon general principles; and although I do not venture to say, for it is not my province to decide a question of law, that these principles have been misapplied, it is sufficient to justify my referring it to a higher tribunal, that there appeared to me sufficient cause for doubt. It certainly would have been the correct course to have referred the question to the bench of judges, but for this there was not sufficient time between my receiving the official report of the trial, and the period assigned for the execution of the sentence, which was but fifty hours, and the place of execution one hundred and thirty miles distant from me. Under these circumstances I took the only course prescribed to me by the constitution. The common law doctrine upon this subject is not questioned. Certainly where the death of a child or servant is the effect of the passive negligence of a parent or master, the offence may be murder. So also where it is the consequence of active severity in chastisement, it may be murder or manslaughter, according to the indiscretion in the choice of the instrument used, the extent of the punishment, and the circumstances under which it is administered. The report explicitly negatives all presumption of express malice. His right to correct the child cannot be contested; the instruments used were not unlawful; the essential ingredient in the constitution of his offence arises then by implication of law, from the indiscreet exercise of

his rights, the result of a violent temper. Had the death of the child arisen from a course of immoderate correction, accompanied with intervals of calmness from subsiding passion, it would have evinced that general depravity which warrants the inference of malice. But where the passions are excited, and kept in an uninterrupted agitation, such is the benign tenderness of the law to human frailty, that a homicide committed in this state of mind, though a felony, is not murder but manslaughter. Which of these offences the convict has been guilty of, is for you to decide. When you shall have this subject under consideration, permit me to direct your attention to the sixth enacting clause of the act entitled "an act concerning murder." Its terms are "that upon all indictments for the death of any person, if it be found by verdict that the party indicted happened to kill the person for whose death he is indicted, *in lawfully chastising or correcting his child or servant*, the party so indicted, &c. shall not forfeit or lose any thing for the death of the same person so killed, but shall thereof, and for the same, be fully acquitted and discharged." This clause has never, to my knowledge, received a judicial construction. Should it be contended that it is applicable only to cases where the correction is lawful in all its particulars, it is useless, for such cases were not punishable at common law. May it not be intended as a protection against the efforts of indiscretion? I presume not to give an opinion. It would be travelling out of the line of my duty.

At the last session I recommended to the consideration of the legislature the propriety of an alteration in the criminal code, which should make a distinction between the cases of actual and implied murder. The subject was committed, and the attorney general, who was charged with it, approved the plan, and determined to report by bill. His time being much occupied, I engaged to draw the bill for him; but really I could not find leisure to comply with my engagement. I, therefore, consider the subject as still under legislative consideration, and this was an additional motive for referring the case of Arnold to you. I must add also, as a further inducement, the application of a number of inhabitants of the county of Otsego, for a six weeks respite of this unfortunate man. It was too respectable not to claim attention, and could in no way be constitutionally complied with, but by suspending the execution till the meeting of the legislature. Some letters respecting his case will be laid before you, on which I shall only remarks, that Mr. Peck, I understand, was one of his judges, and Mr. Phinney foreman of the grand jury, who found the bill on which he was convicted.

I cannot dismiss this subject, gentlemen, without remarking the great impropriety of the discussion it has undergone, in some of the public prints. A discussion calculated to pollute the streams of justice, and to prevent an impartial decision, on a question involving the life of a citizen. Confident it has failed to produce on

your wish the effect intended. I am sensible it will not have its influence on the fate of the convict.

The other case is that of David Williams, mentioned in the report of Cayuga. The report and documents accompanying it will be laid before you, and will furnish every necessary information.

The single question is, as to the sanity of the man.

Application was made to the legislature at their last session by a gentleman in the city of New-York, for aid in the support of a Botanic garden, which he had recently established. At the request of some of the members, I, in the course of the last summer, paid it two visits, and am so satisfied with the plan and arrangements, that I cannot but believe, if not perfected in August, it will be productive of great general utility. The objects of the proprietor are, a collection of the indigenous, and the introduction of exotic plants, shrubs, &c. and by an intercourse with similar establishments, which are arising in the eastern and southern states, to inure the useful and ornamental products of southern to northern and of northern to southern climes. In the article of grasses, I was pleased to see a collection of one hundred and fifty different kinds. A portion of ground is allotted to agricultural experiments, which cannot but be beneficial to an agricultural people. When it is considered that this branch of natural history, embraces all the individuals of the vegetables which afford subsistence to the animal world, compose a large portion of the medicines used in the practice of physic, and many of the ingredients essential to the useful arts, its utility and importance is not to be questioned. But in a country young as ours, the experimental sciences cannot be expected to arrive at any degree of excellence, without the patronage and bounty of government; for individual fortune is not adequate to the task.

Among the various objects to which I have thought it necessary to call your attention, none certainly claim a preference to those connected with the general defence; they will probably, therefore, be first considered. That a spirit of harmony and union, gentlemen, which the circumstances of our country at no period have more loudly called for, may preside in your councils, and that every minor consideration may give place to an ardent desire to promote the public good, is the fervent wish of my heart, and shall be the constant object of my unremitted exertion.

MORGAN LEWIS:

Albany, January 28, 1806.

The Legislature met at the city of Albany, pursuant to law, and after the usual preliminary proceedings, the Governor opened the session with the following

SPEECH :

GENTLEMEN OF THE SENATE AND ASSEMBLY,

IN looking back on the events of the past year, we find abundant cause for gratitude and mutual felicitation. Our commercial cities, in the whole extent of the continent, have been exempted from the scourge of that malignant disease which has so frequently depopulated them, and interrupted their commerce. Our country has progressed in wealth and strength with a rapidity unparalleled. Our exterior relations have assumed a brighter aspect, since the just and pacific disposition of our government has placed our differences with foreign powers in a train for amicable adjustment. Our public debt has been greatly diminished. Our burthens are scarcely perceptible, and a general prosperity rewards the various exertions of our citizens. Such a state of things evinces the blessing of heaven on a wise administration of our national concerns.

In this general dispensation of benefits, our state has merited and received an unrivalled portion. In the course of a few years, she has out-stripped her confederates, in those important sources of national greatness, agriculture and commerce ; and is not behind the foremost of them in improvements in the useful and fine arts. The first of the assertions is supported by a comparison of exports from the city of New-York, with those from the city of Philadelphia, during the short period of five or six years, which affords an unerring criterion, and establishes this important fact, that while each has experienced a rapid increase, the former which, at the commencement of the period, was far behind, has previous to its termination, overtaken and gone far ahead of the latter. To explain : in the year 1800, the exports from Philadelphia stood in a ratio to those of New-York, of about seven to ten ; at the close of 1805, those of New-York were to those of Philadelphia as twelve to seven nearly. Whence, it is natural to enquire, proceed these results ? Which are the more remarkable, as Philadelphia has preserved her superiority in population ; having considerably upwards of an hundred thousand inhabitants, while New-York has little more than seventy. The question is one which merits the examination of an enlightened people, and the solution of it, if I mistake not, will be found in our spirited exertions in the improvement of roads and navigable streams. These have facilitated an intercourse between our sea ports and interior country ; have taught the forests to bow beneath the labors of the husbandman ; have converted the wilderness into fruitful

fields, and have made the desert places rejoice and blossom as the rose. Similar causes have produced similar effects in Great-Britain, a country unequalled in agriculture, arts, manufactures and commerce. It is little more than fifty years since her attention was earnestly turned to the facilities of internal intercourse ; from that period her exports have been progressing and have nearly attained to an increase of four hundred per cent. while that of her population has not exceeded ten. A wise government will not fail to improve such advantages.

In the discharge of those duties, gentlemen, imposed by the constitution on the executive, at the opening of every session of the legislature, I have little information to give you, and but few subjects to recommend to your deliberation, but such as have on former occasions been submitted. The leading points of republican policy which, under our form of government, ever must have the strongest claims to national consideration, are the encouragement of agriculture and the useful arts, the diffusion of knowledge by institutions for the promotion of education, the advancement of public justice, and the efficiency of the national force. To these objects we have at no time merited the reproach of being indifferent. Great and honorable exertions have been made ; much however, still remains to be done, which we have the ability to do.

A society has been instituted by the legislature for the promotion of agriculture and useful arts. But it has ever been so streightened in its pecuniary means, as greatly to circumscribe its utility. Very moderate legislative assistance would enable it to institute a course of agricultural experiments which would be highly beneficial to the community. It might teach us the art of increasing the product of labor ; of improving the breeds of the useful domestic animals, and the quality of such crude materials as are used in our infant manufactures, and are derived from our own soils, and our own flocks. European nations are eminently indebted for their progress in these particulars to the liberal support of similar institutions.

The act of the 2d of April, 1805, entitled " an act to raise a fund for the encouragement of common schools," contains an authority to the comptroller to loan the interest annually arising from the fund thereby established, for the purpose of a cumulative increase of capital to a certain extent ; I submit to the legislature the propriety of a similar provision as to the dividends on the stock held by the state in the Merchants' bank, and the interest on the loans made under the 14th section of the supply-bill for the year 1803. The principal or capital, in these latter cases, having been appropriated by the legislature to the same wise and benevolent purpose, as in the former. The inducement to this measure is, the slow progress of the first mentioned fund, which, without aids, will not benefit the rising generation of the present day, whatever it may do for those which shall follow.

In inviting your attention to the subject of public justice; I cannot refrain from again urging the propriety of a revision of the criminal code, that the degrees of punishment may be more accurately proportioned to the comparative magnitude of offences. That the value of a cent should warrant the difference between three and fourteen years imprisonment in the case of larceny, or that he who alters a receipt for a few shillings, or knowingly passes a piece of false coin of the lowest denomination, which he has honestly received, should be punished as severely as he who counterfeits the currency of the country, and thereby impairs the confidence of the community in the general medium of commercial transactions, are certainly defects in the system of criminal jurisprudence which require a remedy. Instances of some of the latter cases, I understand, actually exist at this moment. Let it not be said the executive has the power to mitigate the severity of punishment in such cases. The prerogative to pardon vested by the constitution, can be only exercised righteously under a discretion strictly legal or in cases very peculiarly circumstanced, and cannot with propriety pronounce the sanction of the law unjust.

Repeated applications have been made to me by respectable citizens, on the subject of the act, entitled, "an act for establishing courts of justices of the peace in and for the city of New-York," which, notwithstanding the amendments made last winter, still continues to excite much uneasiness. The principal ground of complaint, is the expense and delay attending prosecutions in those courts. A delay of justice is, to the poor man, emphatically a denial of justice; particularly in large and populous cities, where the loss of a day's labor, is frequently the loss of a day's subsistence to a worthy family. This class of citizens, therefore, ought never to be subjected to a fruitless attendance on court, nor to the hazard of expenses, which shall deter them from prosecuting their rights. As far as the grievances complained of proceed from defects in the organization, jurisprudence or administration of these inferior tribunals, redress will be found, I trust, in the wisdom and policy of the legislature.

I should consider myself, gentlemen, manifestly deficient in the discharge of my duty were I to relax my exertions to impress on your minds a conviction of the propriety of greater attention to the state of the national force than has yet been bestowed on it. If we are sincere in the belief that standing armies are hostile to liberty and economy, and mean to avoid the necessity of employing them, by entrusting the national defence to the militia of the country, that militia should certainly be rendered as efficient as possible. It requires not argument to convince the reflective mind, that in the present improved state of military tactics, numbers alone give not national strength; and that well appointed and well disciplined invading armies, when opposed by ill provided

irregulars only, spread desolation, inflict calamity, and achieve conquest with little difficulty. Even the generous love of country and the public good, which republics ought to cherish, and which serves the patriot's arm, when encountering the enemies of his native soil, is then but the sad mean of swelling the dire catalogue of human misery. This is not a picture of the imagination, it is drawn from real life, and I forewarn you in time, gentlemen, that it may not be realized in our own country. I have been an eye witness to the state of the militia; I have personally inspected nearly the whole, and I can with truth assert to you, that they have not, as I verily believe, of such arms as a soldier ought to have, and as our law requires, a musket to every tenth man, nor a bayonet to every twentieth; many are destitute of arms of every description, and appear on parade shouldering a staff in place of a fire-lock; nor is the fault imputable to them; arms they cannot procure, and it is the duty of the government to furnish them. I say the *duty*, because I am warranted in saying so, both by the intrinsic nature of the thing, and the constitution of our country. The fortieth article of the constitution ordains, that the militia of the state shall, at all times, as well in peace as in war be armed, disciplined, and ready for service; and that a proper magazine of warlike stores, proportionate to the number of inhabitants, shall be or ever thereafter, at the expense of the state, and by acts of the legislature, established, maintained and continued in every county in the state. An injunction so solemn, cannot, consistent with duty, be disregarded. Nor is the deficiency in arms, greater than that in colors and martial music; many regiments are totally destitute of the former and very ill provided with the latter. So great is the deficiency in this last particular, that, with the exception of the city of New-York, there can scarcely be collected, throughout the state, a dozen drummers, capable of distinguishing a retreat from a charge. If the legislature should entertain doubts as to the importance of having in the militia, musicians skilled in the various branches of military music, I would recommend to their perusal the act of congress of the 3d of March, 1803, for the organization of the militia of the district of Columbia. They will find it there considered of sufficient magnitude, to justify the holding out considerable inducements to engagements in the service. I have found every where a laudable military ardor, an emulation to excel in military discipline and knowledge, which, if promptly encouraged, and united with a just confidence in our own strength, may bid defiance to foreign aggression; to aspire that confidence is completely in the power of government.

An exemplification of an act of the legislature of the state of New-Jersey will be laid before you, from which it will appear, that some controversy has arisen as to the limits of the territorial and jurisdictional rights of that state and this. An equitable and

amicable mode of adjustment, by a reference to commissioners is proposed, which I presume will be acceded to.

To render your session, gentlemen, agreeable to yourselves, and beneficial to our country, nothing on my part shall be wanting.

MORGAN LEWIS,

Albany, January 27, 1807.

DANIEL D. TOMPKINS.

On the 26th day of January one thousand eight hundred and eight, the Legislature convened in the City of Albany, and on the same day, the Governor made the following

SPEECH :

GENTLEMEN OF THE SENATE AND ASSEMBLY,

You are convened to deliberate and decide upon the important concerns of this state at a very interesting crisis of our public affairs. The pacific disposition invariably manifested and pursued by the wise and faithful administrators of the general government has hitherto succeeded in shielding us from a participation in those calamities and miseries with which Europe is scourged. It inspired sanguine hope that measures, dictated by a spirit so conciliatory would be attended with continued exemption from foreign insult, depredation or war. But the late unprovoked and unprecedented attack upon the frigate Chesapeake by a British vessel ; the unwarrantable pretensions of Great Britain to arrest and bear away seamen from our ships upon the ocean, to intercept and destroy our lawful commerce with nations with whom she is at war, and the glaring infringements of the established principles of the law of nations, avowed and practised both by France and Great Britain, have seriously impaired the rights, wounded the honor and assailed the independence of our country.

These events have diminished the hope of maintaining peace, notwithstanding the uniform observance of justice and good faith towards other nations, and have produced the necessity of resorting to energetic measures. The proceedings, adopted on the emergency by our national legislature, will be found, upon an unprejudiced consideration, not only impartial towards the contending nations of Europe, but also well calculated to protect our mariners and preserve the merchandize of our citizens, should an appeal to the sword become inevitable. In such an event, property of immense value will be secured in our country, which, but for the embargo, might have enriched the coffers of the very enemy with whom we may have to contend. The causes of misunderstanding and obstacles to amicable adjustment, arising from captures under blockading decrees and from impressment of seamen, will also thereby cease to be multiplied. The well known facts, that the commercial enterprize of France and her allies has, from a variety of causes, become almost extinct, and that she materially depends for her necessary supplies of provisions and

other articles of foreign merchandize, and for the transportation of her colonial produce, upon the unrestrained commerce of American merchants, independently of the acknowledged integrity and patriotism of our public agents, repel the absurd idea, that the recent measures originate from partiality to that country, or from any subserviency to her views.

Every liberal and candid mind will ascribe the imposing an embargo, to a sincere desire to avoid an interference in European broils, to protect our seamen and to secure the property of our citizens, in the event of an unpropitious termination of our negotiations with any of the belligerents. What patriotic citizen will murmur at the temporary privations and inconveniences resulting from this measure, when he reflects upon the vast expenditure of national treasure, the sacrifice of the lives of our countrymen, the total and permanent suspension of commerce, the corruption of morals and the distress and misery consequent upon our being involved in the war between the nations of Europe? The evils which threaten us call for a magnanimous confidence in the efforts of our national councils to avert them; and for a firm and unanimous determination to devote every thing that is dear to us, to maintain our rights and national honor.

Being thus circumstanced, it becomes our duty to be assiduous in providing for the welfare and security of the persons and property of the citizens of this state. The appeal to the general government for an efficient and permanent fortification of the city of New-York, has not failed to excite their serious attention to that subject. The plan which has been undertaken, the degree to which it has progressed, the operations contemplated to be pursued, and the measures to which your sanction is desired, will be communicated to you without delay.

Although our anxiety is alive to the protection and safety of the city of New-York, and although our exertions to obtain complete security for that important capital should continue ardent and unceasing, we ought not, at the same time, to be unmindful of the exposed situation of our brethren upon the northern and western frontiers of our state. That enterprising portion of the community which has penetrated the wilderness and extended civilization and improvement to the very borders of our expanded territory, looks to you for assistance and protection at this momentous period. The hardships and difficulties to which they have submitted, their dispersed situation, their remoteness from the deposits of military stores, and the markets at which they may be purchased, the scarcity of money incident to new settlements, their exposure to the sudden attacks and merciless cruelties of unrelenting savages, and the unanimity with which they have tendered their services at the call of their country, combine in giving force to their entreaties to be furnished with the means of self-defence.

It affords me sincere satisfaction to inform you, gentlemen, that the detachment and organization of our quota of one hundred

thousand men has been accomplished, and a return thereof for the war department nearly completed. The patriotism displayed on this occasion, by every description of our fellow citizens, merits the greatest applause. All the artillery of the detachment, and most of the cavalry and infantry are volunteers ; and thousands beyond the complement required have tendered their services with promptitude and zeal. This generous conduct affords a pleasing evidence of the alacrity of our militia in advancing to the defence of their country, and of the valor which they will display in supporting its honor and freedom.

The obstacles encountered by the militia officers in detaching and organizing this quota, suggest the propriety of some alterations in the act, organizing the militia of this state. By the 3d and 5th sections of that act, it is provided, that the cavalry and artillery shall parade for annual inspection under the orders of the brigadier-generals of infantry. It does not require the inspectors of infantry to transmit copies of the returns to the cavalry and artillery officers. When therefore the latter are directed to detach any of their men, their ignorance of the number and equipments of the several corps, precludes the possibility of an immediate compliance with the order. This defect may be remedied either by appointing brigade officers of artillery and cavalry, to inspect and make inspection returns of their brigade to the general officers thereof, or the additional duty of furnishing them with copies of the returns, might be imposed on the brigade-inspectors of the infantry. Should a sudden emergency produce the necessity of calling for a quota of militia, in any one year after the parades of that year had taken place, it may be questioned whether the men so detached could be compelled to assemble again in the same year, without compensation as for actual service, and it is therefore respectfully submitted, whether it would not be discreet to direct in such case, an additional parade of the detached corps for the purpose of obtaining muster-rolls and inspection lists. The expensive equipments of the cavalry, and the propriety of affording them equal encouragement with other uniform troops, suggest the expediency of extending to them the privileges enjoyed by the artillery.

The officers appointed by an act of the late session to cede to the United States the jurisdiction of certain parcels of land, have not met for that purpose ; as their power did not extend to those places of which jurisdiction has been requested, it became unnecessary to convene them. The places to which this request relates, will be specified in a separate communication.

The proceedings under the act of 1806, for procuring ordnance and ammunition, will also be speedily submitted.

The sum of three thousand dollars, granted for the purpose of erecting a powder magazine near the city of New-York, has not been expended. The act contemplated a different scite from that on which the old magazine is situated, and the sum appropriated

proved inadequate to the purchase of another eligible tract and the erection of a building.

I have deemed it a duty to exercise the discretion confided by the constitution to the chief magistrate, in respiting the execution of John Williams, lately convicted of murder, in the county of Greene. The evidence adduced upon his trial, accompanied by the opinion of the presiding judge, will be immediately communicated for your consideration. The importance to the public, and to the individual, of every question, the decision of which involves the life of a fellow-creature, imposes the duty of affording to this case, impartial inquiry and solemn deliberation.

The persons authorized by an act of the last session, to confer and agree with those appointed by the legislature of New-Jersey, respecting certain claims of jurisdiction and territory, have adjourned without adjusting and without a prospect of settling the controversy arising upon those claims. The measures, subsequently adopted by the legislature of that state, require your early attention. While it is our duty to cultivate and preserve amity with every member of the Union, it behoves us to guard with circumspection, and support with firmness, the rights of this state.

In every well regulated community, there are no institutions of higher concern than those which relate to the administration of civil and criminal justice. Our property, our liberty, and our lives depend on the adjudications of our courts. Hence it is highly interesting to all, that those who preside in them should be men of competent abilities and unsuspected probity. To call forth adequate talents and character to fill the seats of justice, such salaries should be given, as will enable the judges to support themselves and families, and in some degree provide for that retirement contemplated by our constitution. In addition to the permanent salary, an act, which has recently expired, allowed to the judge of the supreme court, holding the circuit or sittings in New-York, an extra compensation. By that act also, the judges residing in the city of New York, were authorized to receive fees for chamber business. Whether a mode of compensating the judges for the extraordinary services required by the immense increase of business in the city of New-York, less partial in its operations cannot be devised, is submitted to your wisdom. I think it my duty to observe to you, that the multiplication of suits, from the increase of population and the organization of many new counties, will require the judges to be absent from home, at a great expense, for much longer periods than formerly; and that considerations of justice seem to me to require a provision equal, at least, to that of which they are deprived by the expiration of the before mentioned act.

The improvement of agriculture, manufactures and commerce will, at all times, and under all circumstances, attract the attention, and command the exertions of a just and wise government; but in our present situation, external commerce being almost entirely

cut off, and when it is not improbable that an appeal to arms will soon be made, it is peculiarly important to adopt all measures in our power, in order to increase the means of supplying ourselves, and to encourage those arts which contribute to the support and comfort of human life ; to facilitate interior communication, and to invigorate the enterprising spirit of our country. Nor will the great and important duty of disseminating useful knowledge, and at any time, or in any crisis, escape the attention and encouragement of a liberal, enlightened and patriotic legislature.

Permit me, gentlemen, through you, to communicate to the electors of this state, my grateful acknowledgments for the confidence they have been pleased to repose in me. While my sensibility is awakened by the distinguished honor they have conferred, I can honestly assure them, that my conduct shall always be directed by a zeal to advance their welfare.

May that wise and benign providence which has dispensed its richest favors to our country, endow us with wisdom to discern, and virtue to pursue, the best means of perpetuating the blessings we enjoy.

DANIEL D. TOMPKINS.

Albany, 26th January, 1808.

On the first day of November one thousand eight hundred and eight the Legislature assembled for the purpose of choosing electors of President and Vice-President ; when the Governor made the following

SPEECH :

GENTLEMEN OF THE SENATE AND ASSEMBLY,

At the commencement of the last session I had the honor of expressing to the legislature my opinion respecting the measures adopted by the national councils, to prevent our being involved in the desolating wars of Europe. Nothing has since occurred to produce a change of that opinion or to impair my confidence in their exertions and zeal to avert, as far as is consistent with the welfare and independence of our country, the calamities of war. I am however, compelled with regret to inform you, that I am not apprised of any material alteration in the state of our foreign relations since that period. The embarrassments to commerce and agriculture, incident to the existence of the embargo, are still experienced, and should they continue, they must be ascribed to the perseverance of the belligerents in their illegal and unjust aggressions upon the commerce of the United States. This consideration affords addi-

tional motives, for enduring with patience the privations resulting from the counteracting measures of our own rulers, and for yielding a warm, unanimous and decided support to their prudent and incessant efforts to maintain, without an appeal to arms, the honor of our country, and the rights and tranquility of its citizens. Should our hopes of an amicable accommodation of existing differences be frustrated by an obstinate adherence of the belligerents to their unprincipled and arbitrary restraints upon neutral commerce, and a resort to the sword become inevitable, we can meet the event with a consciousness of the rectitude of our cause ; with a firm dependence on the patriotism and bravery of freemen, and with a humble reliance on the protection of that providence who has hitherto favored us.

The period for which the President and Vice-President of the United States were elected, expires on the fourth day of March next. The appointment of electors to represent this state in the choice of successors to those distinguished personages, is the principal business for which you are now convened. I however avail myself of this occasion to submit to your consideration some topics not immediately connected with this prominent duty.

It has not probably escaped your observation, that on the eighth day of March last, a law was passed inflicting death for a crime, which antecedently subjected the offender to imprisonment in the state prison for life, and authorising whipping for petit larceny. It has been justly observed that punishments, mild, speedy and certain, are the means best calculated to answer the end of criminal jurisprudence, that they ought always to be proportioned to the crime, and that the reformation as well as the punishment of the offender, ought to be constantly and steadily kept in view. The spirit of freedom, the dictates of humanity, and the principles of christianity, require that the awful penalty of death should be inflicted as seldom as possible. The scene of distress and agony exhibited at an execution, naturally excites an aversion to the laws which sanction such severity. Punishments will also be more certain, when moderate and rational. Because, those who are best able to prove the guilt, or who may be most materially affected by the crime, will then feel no reluctance, nay, will cheerfully perform the duty of detecting and exposing every offender. The jury will be less anxious to seize upon specious doubts to justify an acquittal and but a feeble hope of escaping the sentence of the law, by technical objections to matters of form, or by executive clemency, will be entertained. Besides, by substituting imprisonment at hard labor, society is relieved from the painful responsibility of sending one of its members suddenly and perhaps unprepared to the tribunal of his God. The fruits of his labor enure to the benefit of community or his family ; the regimen of the prison precludes gambling, idleness and debauchery, the usual preludes to greater enormities ; and that discipline united with the religious exercises of the institution, afford to the charitable and philanthropic mind

at least a glimmering hope of ultimate repentance and reformation. Impressed with a decided opinion that the deprivation of life is seldom necessary, and that it is incompatible with the genius of a free government, and the state of civilization and refinement of which we boast, I am constrained by a sense of duty to suggest the absolute necessity of forbearing to extend that punishment to other crimes than those of treason and murder. With respect to whipping, for petit larceny, I would remark, that there are various reasons which might be assigned in favor of confinement at hard labor in preference to corporal pains. By the former, the offender is deprived, for a period, at least, of an opportunity of repeating his crime, whilst in the latter case, he is forthwith discharged to renew his depredations. A term of temperance, labor, and privation affords a hope of amendment. While on the other hand, reason and experience abundantly testify that no such reformation can be wrought by the agonies of a lacerated body; for the publicity and ignominy of the punishment stifle every remnant of pride and ambition, and destroy the prospect of ever regaining a character. I might also add, that the frequent exhibition of cruel and sanguinary punishments wounds the sensibility of the humane, and corrupts the disposition, and depraves the morals of a great proportion of the spectators. With deference, therefore, I submit to your wisdom the propriety of totally exploding corporal chastisement from our criminal system.

There is much reason to believe that the prevalence of crime of a deeper dye, are too often the result of impunity for offences of an inferior grade. Although the legislature have, by a variety of statutes, enacted numerous regulations to prevent practices of an immoral and dangerous tendency, and which are generally the commencement of a career of more iniquitous and criminal conduct, and although the provisions of those statutes are daily and notoriously violated, yet the instances in which they are enforced, are astonishingly rare. The security with which one law is publicly infringed, not only creates an expectation of similar impunity for the violation of others, but also produces a contempt of the laws generally. Your wisdom will determine whether some more suitable measures ought not to be devised to ensure their observance.

The execution of the sentence of Rufus Hill, convicted of murder at the last court of oyer and terminer, in Cheango county, has been suspended. A statement of his case will be submitted to you without delay.

Most of the arms, ammunition, and military stores, captured for the Northern and Western Frontiers, have been delivered at their respective places of deposit. Three for the counties of Clinton and Essex are in their way, and have to be transported in Jefferson county are at Ticonderoga, and will be speedily transported to Cheango.

Under the act authorizing the sale of waste and vacant lands in the lots of ground situated in the corporation of New York in the erection of a State Arsenal, a law was passed by the Assembly.

ty of that respectable body, to obtain two of those lots, and a conveyance of them to the people of this state has been executed and delivered. The building has been finished, and the account of disbursements will be exhibited to you during the present session.

The proceedings which have taken place relative to the acquisition of the title of Ellis's or Oyster Island for fortifications, and of Watch Point for a Light-House, and also under the act for procuring an additional supply of ordnance, small arms and ammunition, will be particularly detailed in a future communication.

The powder magazine and a dwelling house for the superintendent, will be completed in a few days. The quantity and situation of the land obtained for this purpose, with an account of the money drawn and expended, will be the subject of a special message.

It affords me pleasure to inform you that the fortifications erecting under the authority of the United States for the defence of the city of New-York, have been prosecuted with activity and zeal. A variety of circumstances, have retarded the commencement of the expenditure of one hundred thousand dollars appropriated for that object by the legislature of this state. To accomplish their views by devising and commencing works upon which the greatest number of distressed persons might be employed, and which might be in concert with the defensive operations of the general government, and at the same time to apply the sum granted in the most economical and beneficial manner, was a task replete with anxiety, responsibility and embarrassment. I have the satisfaction to inform you, that with the intelligence and generous assistance of Colonel Williams, chief engineer of the United States, whose services merit the highest encomium, those difficulties have finally been surmounted, and I flatter myself the place which has been decided upon, and the plan of the works to be erected, will meet your approbation.

It is our lot, gentlemen, to live in a portentous period. The old world is shaken to its centre by the mad ambition of its potentates; and Europe exhibits an affecting spectacle of blood and warfare. It has been the alternate policy of two of the belligerents to entangle us in their quarrels; hitherto we have escaped, but it requires almost super-human wisdom in our rulers to preserve our sovereignty and independence and to avoid being engaged in their wars. Thus situated, it is our solemn duty to second the efforts of those to whom we have entrusted the highly responsible rights of peace and war. It is our duty to strengthen the hands of government by imparting a liberal confidence when our dearest rights are not only in jeopardy but actually invaded, and to prove to the world that we are not a divided people, but that we are in truth Americans.

With an ardent wish that harmony may prevail in your deliberations, and that your proceedings may promote the welfare of our constituents, I tender you an assurance of my readiness to co-operate in your labors to promote the common benefit.

DANIEL D. TOMPKINS.

Albany, November 1, 1808.

On the thirtieth day of January, one thousand eight hundred and ten, the Legislature met at the City of Albany, when the Governor delivered the following

SPEECH :

GENTLEMEN OF THE SENATE AND OF THE ASSEMBLY,

You are assembled for the purpose of deliberating and deciding on the important concerns of this state, which, by the constitution, are devolved upon you as the immediate representatives of the people. The magnitude of that duty is enhanced at the present juncture by the convulsed state of the civilized world, and by the great political events constantly occurring.

The nations of Europe have persevered, during the past year, in their sanguinary struggle, with increased animosity. Whole districts of country have been desolated; kingdoms subjugated, and hosts of innocent subjects sacrificed. These occurrences present a mournful picture of the rapacity and ambition of princes, whilst they afford a monitory lesson to the American people.

The situation of the United States has been, in the mean time, comparatively happy and enviable; for it hath pleased the Great Disposer of events to ordain peace in our borders, and to crown our year with goodness.

The prosperity of the nation, however, has not been uninterrupted. Connected as the United States are, by commercial intercourse, with other nations, we could not avoid feeling the shock of the contending powers. At an early period it was feared, that our commerce would experience material impediments from a widely-extended foreign war; and more especially, as one of the great belligerents controlled the destinies of the European continent, and the other possessed the means of domineering upon the ocean. But their professions of respect for the rights of others, and their avowed homage to the authority of the law of nations, forbade us to anticipate those gigantic strides which have overleaped the settled principles of public law, which constituted the barriers between the caprice, the avarice or the tyranny of a belligerent, and the rights and independence of a neutral. It would be painful to dwell upon every aggression, injustice, violence and insult, which we have witnessed and experienced for several years past. The interdiction of neutral commerce from a part or the whole of the territories of one belligerent by a declaration of blockade by the other, without actual investment by force, and without a capacity therefor; the imposition of a tax or transit duty on neutral commerce in the ports of one power to legalize its transmission to the adverse power; the violent arrest, from our public and private vessels, of seamen, almost without regard to the place of their nativity; the liability of neutral property to seizure and condemnation by one party in consequence of search

by the other of the ships transporting it, and the total prohibition of neutral commerce with one belligerent by the other, without blockade of any description, are amongst the prominent usurpations which have sacrificed much of our property, enslaved many of our citizens, insulted our sovereignty, and almost proscribed neutral commerce from the ocean. Some neutral vessels have been seized, robbed, destroyed or condemned upon frivolous and provoking pretexts, not even justified by the arbitrary and ruinous restrictions above mentioned; and one of our public armed ships has been insultingly attacked, several of her crew killed, and others taken forcibly away; an act acknowledged by the nation, whose officer committed it, to be wholly unwarrantable, but which still remains unatoned.

The constant evidences of a desire on our part to maintain a strict and impartial neutrality; the earnest and able appeals for redress by our rulers to the honor and justice of the belligerents, and our continual remonstrances against their incessant and unprovoked encroachments upon neutral commerce, have all been disregarded or evaded. No revocation or material relaxation of the offensive decrees of France has been obtained. With Great Britain an arrangement was effected in April last, which, at the same time it evinced the impartial and pacific intentions of our administration, and a returning sense of good faith and upright conduct in the cabinet of St. James, diffused a lively satisfaction through the nation, and presaged a speedy restoration of good understanding and harmony between the two countries. But our hopes were blasted, and the wise and patriotic intentions of our rulers, baffled by an unexpected disavowal of the agreement and an unqualified refusal to fulfil its stipulations on the part of England. Since the recal of the minister who negotiated the arrangement, nothing has occurred to brighten the prospect of an honorable adjustment of our differences. On the contrary, instead of evincing an amicable disposition by substituting other acceptable terms of accommodation in lieu of the disavowed arrangement, the new minister has persisted in impeaching the veracity of our administration which a sense of respect for themselves, and for the dignity of the nation they represent, forbade them to brook. They adopted towards him on that occasion, the most moderate and least irritating course of treatment; a course demanded by his deportment, and meriting the approbation and support of every American, who feels anxious to preserve the honor and independence of his country.

The momentous duty of deciding upon the attitude which the United States shall assume in the present emergency, is delegated to intelligent and virtuous agents. In their wisdom we may safely confide; and it becomes us to place a firm reliance on their patriotic exertions to devise such measures as may be best calculated to promote peace and prosperity, or to provide for the security of our common country in the event of war. For all the efforts of human wisdom directed by the purest virtue in our rulers may

prove unavailing without that union, confidence and support which the genius of our government, the spirit of patriotism and the dictates of reason, nature and christianity impose upon the members of the community. If the members and the head be united and act in concert, no foreign power can endanger the life or safety of the political body.

With respect to the internal affairs of this state, it affords me great satisfaction to inform you that more than usual proficiency has been made in improving and extending agriculture and manufactures. The liberal patronage which the legislature has been pleased to extend to domestic manufactures, by loans and bounties, has been attended with the most salutary effect. The enlightened policy of a few individuals has also introduced a breed of sheep which essentially promotes the fabrication of cloths of a superior quality.

It rests with the Legislature to decide, whether, by further encouragements, an additional stimulus may not be created, which will enable our citizens to convince foreign nations that we are not dependent on them for manufactures.

The measures which have been pursued under the various laws, providing for defence, will be particularly detailed to you in a separate message. In the mean time I would remark that about forty-five thousand dollars of the fund appropriated for fortifying the city of New-York, remains unexpended. A very effective water battery of durable mason work, called Fort Richmond, has been completed during the season, on the west side of the Narrows, and is ready to receive twenty-seven cannon. This battery is capable of sustaining, with inconsiderable additional expense, a second tier of guns. Two other batteries, each extending on the easterly and southerly sides of the point of Staten-Island, have also been formed, and are in readiness to receive platforms and guns. The line of the lower battery is six hundred and seventy feet, and that of the upper four hundred and eighty feet, affording together ample space for eighty guns.

Another battery capable of mounting twelve guns, has been excavated from the hill at an intermediate distance between the last mentioned batteries and the fort described in a communication to the legislature at their last session. A well of one hundred and forty-five feet in depth, has been sunk within the contemplated lines of the main work, and a wharf constructed near Fort Richmond for the accommodation of vessels drawing ten feet of water. The whole has been managed gratuitously by five commissioners, to whom, and to the colonel of engineers, the state is principally indebted for the celerity, ability and economy with which that service has been performed. Their report, accompanied with plans of the several batteries, will be submitted to you in a few days by a separate message, and will furnish all the information requisite to enable the legislature to give such further directions on that subject as may be deemed useful and proper.

An official statement of the colonel of engineers will, at the same time, be laid before you, describing the present state of the interior defence of the harbor of New-York, so far as relates to the fortifications erecting by the United States. One hundred and sixty-six guns may now be mounted on those works, and they are calculated, when completed, to receive three hundred and four guns and ten mortars. The progress which has been made in the purchase of ordnance, small arms and ammunition, and the measures taken pursuant to the act to provide for the defence of the frontiers, will form the subject of a special message.

Ten years will have expired at the next regular session of the legislature, since the laws of the state have been revised ; some of them have become obsolete, others have expired, and experience has shewn, that many of those in force are susceptible of amendment. The report of the decisions of the supreme court, will afford better materials for revisal than were formerly to be obtained ; and moreover the statute books have become too voluminous and expensive to be purchased by many citizens and officers who ought to possess them. It is, therefore, respectfully submitted to your wisdom whether preparatory arrangements for that purpose, at the present session, would not conduce to the benefit of the community.

I cannot omit this occasion of inviting your attention to the means of instruction for the rising generation. To enable them to perceive and duly to estimate their rights ; to inculcate correct principles and habits of morality and religion, and thus to render them useful citizens, a competent provision for their education is all essential. The fund appropriated for common schools already produces an income of about *twenty-six thousand dollars, annually*, and is daily becoming more productive. It rests with the legislature to determine whether the resources of this state will justify a further augmentation of that appropriation as well as to adopt such plan for its application and distribution as shall appear best calculated to promote the important object for which it was originally designed.

GENTLEMEN,

At a period of uncommon agitation and embarrassment, it is among the important duties required of us to soar above local and partial views ; to cherish and inculcate a disinterested national spirit ; and to secure, by every possible means, the blessings of liberty to ourselves and our posterity ; and it only remains with me to assure you, that I shall in all things heartily co-operate with the different branches of government, in the necessary measures to promote the general welfare.

DANIEL D. TOMPKINS.

Albany, January 30, 1810.

On the twenty-ninth day of January, one thousand eight hundred and eleven, the Governor met the two houses of the Legislature in the Assembly Chamber, and made this

SPEECH :

GENTLEMEN OF THE SENATE AND OF THE ASSEMBLY,

IN addressing you for the first time, since my re-election to the executive department, permit me to express my gratitude for the recent proof of confidence which has been manifested towards me, and to renew the assurance, that my best efforts shall be devoted to a faithful discharge of the important trust.

It would have afforded me sincere gratification to have been enabled to announce to you, on this occasion, such a favorable change in our foreign relations, as the justice of our claims and the impartial and pacific attitude we have uniformly maintained, authorized us to anticipate.

Pursuant to the powers vested by law in the president of the United States, he has notified, by proclamation, the revocation of the French decrees violating our neutral commerce. This auspicious and important event, has not, however, been accompanied by the restoration of the American property which had been previously seized and confiscated in the ports of France, and is now under her control.

The British orders in council, which had for their basis the pernicious decrees of Berlin and Milan, and which purported to be merely retaliatory, have not yet been annulled, notwithstanding the solemn official assurance that they would be abandoned, which France retracted her decrees. Instead of being so, the information that this assurance would be executed, was given by the British Secretary, in his correspondence of the 10th inst. The minister, has superadded the information, that the revocation of neutral commerce to the condition, that the British government would promulgate the French decrees. It is not possible to give a vague and impracticable condition, and the government, in the correspondence of the government, has expressed the hope of our obtaining a relinquishment of the British decrees, on any acceptable or reasonable terms. We are not to expect any adequate reparation for the loss of our property from that quarter. The correspondence, which has been conducted during the last year with both governments, has been conducted in the public, and empty terms, the only result of which, in the administration towards them, is the loss of our property. We always had the best sense of the importance of the British government, the wisdom and justice of our relations with them, and we hesitate to believe that any government, which has been so long his affections to a foreign government, could be so easily influenced by sentiment, after a careful and correct examination of the facts.

pondence ; and when he reflects that the departure of both belligerents from all the maxims of national law has been so palpable and uniform, that they themselves have ceased to attempt a justification by those maxims, but resort to trite and falacious subterfuges to extenuate their atrocities, he will not find it possible to reconcile himself to a justification of their accumulated insults and injuries ; nor will his judgment, his feelings or his duty permit him to clamour against the measures, or to violate the laws of his own government. What course will be deemed by our national rulers the most expedient for the present emergency I shall not venture to predict ; but whether the prohibition of intercourse, or measures of a more energetic complexion be adopted, I trust every good citizen will reflect that patriotism, morality, and the precepts of religion enjoin on him obedience and support.

The precarious situation of foreign commerce, and a retrospective view of the multiplied violations of our sovereignty and neutral rights, render the astonishing progress which has been made in the improvement and extension of domestic manufactures, a source of lively satisfaction. A beneficent providence has endowed our country with an abundant supply of raw materials of every description, and our citizens are eminently distinguished for persevering industry and for great ingenuity in all mechanical arts. The returns of the census recently taken prove not only the unexampled increase of population in the United States, but furnish also evidence of the flourishing condition of our manufactures. Let us extend to them the utmost encouragement and protection which our finances will admit, and we shall soon convince the belligerents of Europe, to whom we have been extensive and profitable customers, that their mad and unjust policy towards us, will ultimately recoil upon themselves, by giving to our industry, our resources and our policy, a new direction calculated to render us really independent.

In recurring to the local events which have intervened since the last session of the legislature, I notice with much sorrow, the death of the late lieutenant governor of this state. That distinguished patriot and citizen departed this life soon after he had experienced a flattering testimony of the continued confidence and affection of his fellow citizens. It is not for me here to detail the history of his long and useful life, or to pronounce his eulogy. But I owe it to private friendship and to the intimacy of our official relations, to say, that my late venerable associate, rendered to his country eminent services in the great variety of public stations in which he was called ; and what sheds still brighter lustre on his memory, he merited and attained the rare felicity of being universally respected and esteemed in private life, for benevolence integrity and exemplary piety. Whether that part of the constitution which guards against a vacancy in the executive chair, does not point out the expediency and necessity of legislative provision

for the choice of a successor in cases like the present at the succeeding anniversary election, is submitted to your wisdom.

In the last public communication which I had the honor of making to the legislature, the propriety of adopting preparatory arrangements, for a revision of the statutes of this state, was suggested for their consideration. You must indulge me in again inviting your attention to that subject. A hope that you will concur with me in the expediency of a revision of the laws, has induced me to dispense with proposing sundry needful alterations in particular statutes.

An account of the proceedings which have taken place in the erection of frontier arsenals, the purchase of small arms, ordnance and ammunition, the erection of fortifications, and the expenditure of several specific appropriations, is reserved for the subject of a special communication.

I am informed that the report of the commissioners appointed to explore the westerly parts of this state, with a view to ascertain the practicability and probable expense of canal communication between the waters of the Hudson and Lake Erie, will shortly be presented to you. The importance of that subject highly merits, and I doubt not will receive your early and serious attention.

The mode of applying the fund set apart for the encouragement of common schools, and the means of adding to the liberal patronage which has been already extended for the promotion of learning and the consequent advancement of the cause of morality and religion, will form part of the interesting matters which ought to attract your notice.

GENTLEMEN,

Notwithstanding the difficulties we have experienced and the losses we have experienced during the long and bloody wars of the old world, yet we have reason to rejoice that on this day a prosperous and happy people. We are now united upon that Providence which has preserved us in our independence, let us rise above all party considerations and devote ourselves with the heart and the hand to the important duties before us. May all our deliberations be conducted with unanimity and wisdom: and may they terminate in the advancement of the public welfare

DANIEL D. TOMPKINS

Albany, January, 25 1811

The Legislature met at the Capitol, in the City of Albany, on the twenty-eighth day of January, one thousand eight hundred and twelve, when the Governor delivered the following

SPEECH:

GENTLEMEN OF THE SENATE AND OF THE ASSEMBLY,

THE approaching crisis of our national concerns, and the arduous and diversified duties of revising the whole system of statute law, upon which the peace, the happiness, and the destinies of nearly one million of free citizens may depend, give to the session upon which you have just entered, more than ordinary solemnity and interest. It becomes us, therefore, to advance to its cares, with minds untainted by party acrimony, unswayed by selfish and interested motives, and with our aspirations of praise and thanksgiving to the Great Preserver of nations, to mingle a humble and devout supplication for his guidance and approbation in the accomplishment of the task before us.—

In my communication to the representatives of the people at their last meeting, I had the honor to revert to the then state of our foreign relations, and to note the accumulated injuries which had been inflicted upon us by the powers of Europe. I shall, therefore, forbear to repeat the disgusting detail, on the present occasion.

Nothing has occurred to alter our relative situation with France since the last session of the legislature. One item of complaint, however, has been expunged from the long catalogue of British wrongs, whilst fresh aggravations and insults have been substituted in its stead. The almost forgotten topic of an attack upon the frigate Chesapeake, has been lately revived by an unexpected tender of reparation. which has met the acceptance of our national rulers.

An affront calculated to excite equal sensibility, is to be found in the late assault of the Little Belt upon the frigate President, mitigated, to be sure, by the consoling reflection that it was bravely and nobly chastised upon the spot.

Although accumulated evidence of the actual suspension of the operation of the obnoxious decrees of France, has been submitted to the British cabinet, we are still doomed to witness a persistence in her orders in council, of with the edicts of Berlin and Milan were the pretended and ostensible basis, in defiance of a solemn stipulation to the contrary; and to be the victims of an increased rigor in their execution, which has given the decisive and ultimate blow to our neutral commerce.

It would be painful to dwell upon every item of aggression and insult which swells the list of our grievances. The precise points of difference are stated, and luminously discussed in the documents which have recently been submitted to congress by the national executive. These are so universally and well under-

stood, and the merited confidence in the wise and patriotic managers of national concerns, has been so thoroughly confirmed, as to have produced an union of feeling and sentiment in the nation, seldom before witnessed : and it furnishes a source of conscious pride and satisfaction in every American bosom, to be convinced, that whatever may be our local and domestic differences, we shall be an united and formidable people, upon all questions which involve our national existence and privileges, or which affect the vital principles of independence.

Experience has at length taught us the feeble reliance which is to be reposed on appeals to the veracity, the magnanimity or the justice of monarchs, and has dissipated every remaining gleam of hope that our neutral rights will be suitably respected. The consequent unanimity and spirit which inspire the nation, and which have dictated the late measures of congress, shew a determination to enforce respect for our rights and sovereignty at every hazard.

It therefore behoves the state of New-York, to clothe herself in armour, and to stand prepared for the approaching contest. The security of her valuable and exposed maritime frontier on the south, and the protection of her inhabitants upon the extensive borders of the north and west, challenge our anxious solicitude and united services.

The documents now communicated, with others which will be laid before you by special message, in a few days, will furnish full and accurate information of the number and equipment of the militia, of the extent and distribution of the military stores, and of the situation of our fortifications and military deposits.

With respect to the militia, the most flattering improvements in discipline and equipments, have been universally exhibited both by the officers and privates. The introduction of military schools into several of the counties, has contributed materially to excite ambition, and a spirit of emulation. We may repose unlimited confidence in the patriotism, gallantry and efficacy of the militia, whenever the honor and safety of the country shall require their services. The organization established by the act of 1809, has been found to be satisfactory and judicious in most respects. It is however, essentially defective in one or two particulars. It prescribes no limitation or guide to the jurisdiction of military courts, nor is there in it any designation or definition of what shall constitute military offences, nor any rules or regulations for the practice and proceedings of those tribunals. The remedies proposed for these, and for other omissions and defects which practice has discovered, will be specified in a special report of the adjutant-general, which will be laid before you personally, in the session of the militia law.

The revision of our code of laws will furnish you with opportunities of making many beneficial alterations. It is a means for the gradual and ultimate extermination from our midst of slavery, that represents a false principle as well as a crime. It is a representation of a principle and an enlightened nation.

Allow me here to observe, that the law which authorises the transportation of slaves convicted of offences, is very generally considered impolitic and unjust. Impolitic, because it cherishes inducements in the master, to whom alone those unfortunate creatures can look for friendship and protection, to aggravate, to tempt or to entrap the slave into an error; to operate upon his ignorance or his fears, to confess a charge, or to withhold from him the means of employing counsel for defence, or of establishing a reputation, which is frequently the only shield against a criminal allegation. This inducement will be peculiarly strong, where the slave is of that description, the sale of which is prohibited: for a conviction will enable the master to evade that restriction, and to make a lucrative disposition of what might otherwise be a burthen to him. It is unjust because transportation is added to the full sentence which may be pronounced upon others. To inflict less punishment for the crimes of those who have always breathed the air of freedom, who have been benefitted by polished society, and by literary, moral and religious instruction and example, than to the passions and frailties of the poor, untutored, unrefined and unfortunate victims of slavery, is a palpable inversion of a precept of our benevolent redeemer. The servant "that know not, and did commit things worthy of stripes, shall be beaten with few stripes; for unto whomsoever much is given, of him shall be much required."

It would be an employment equally grateful and honorable, to endeavor to ameliorate the condition and cultivate the affections of the natives, who dwell within our territory. These have generally demeaned themselves in a friendly and inoffensive manner. Although they are amenable to our laws they are yet disqualified from pursuing the ordinary means of redress, for injuries committed upon their persons or their property. It is not to be disguised that worthless and unprincipled white persons, availing themselves of the ignorance of the Indians, and of their horror at becoming the objects of *punishment* by laws which they cannot interpret or comprehend, wantonly and boldly violate their individual possessions and national domain. Such persons are generally of transitory residence, and are amongst the most depraved members of community, who, besides the violation of the individual and national rights of the Indians, corrupt and debase their propensities and habits. These intruders bid defiance to the ordinary remedy by ejectment, the issue of which they can protract for two or three years, and if they cannot, in the mean time, avail themselves of the contingency of the purchase, by the state, or of special legislative interposition in their behalf they escape before final process overtakes them, and leave the estate of the Indians encumbered with the expense of the proceedings. Of repeated and earnest appeals for the redress of these grievances, a wise and prudent legislature cannot be regardless. As no right to the possession or title of Indian lands can be acquired from them by an individual,

and as, therefore, no legal right to recover damages in a suit at law, it is suggested whether a more appropriate way, intruders notwithstanding, of dealing with the no pre-emptive right is based on the principle that where, to be exercise, intruders ought not to be deemed guilty of trespass with accordingly.

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Much of the time of the "Globe" is spent in the "Globe" grossed with the contents of the "Globe" and the "Globe" is the only way of the "Globe" and the "Globe" is the only way of the "Globe" than those of the "Globe" and the "Globe" is the only way of the "Globe" nearly been made of the "Globe" and the "Globe" is the only way of the "Globe" particularly those of the "Globe" and the "Globe" is the only way of the "Globe" during the "Globe" and the "Globe" is the only way of the "Globe"

It has already been stated that the amount of equity capital to be represented during the present year in your files of February 1934 is \$1,000,000 since that that sum is the total amount subscribed by the stockholders of the company. The tests which are made of the equity capital are made by the company and the amount of additional capital to be granted is determined. It will then be enabled to grant the capital to the company.

their paper to the enormous sum of ninety-four millions of dollars, a sum at least sixteen times greater than the whole specie capital of the state. A failure to discharge such a debt, will produce universal bankruptcy and ruin.

The fearful prospect presented to my imagination by the preceding facts, and by the infatuation which has hitherto occasionally prevailed, with respect to banks, demand of me, as a sacred, official duty, to submit to your consideration a few remarks upon that subject.

The intrigue and hollow pretences, which are frequently practised to draw the legislature into the views of applicants, by exciting expectations that particular local benefits will flow from the grant of the charter solicited; or that particular classes of citizens, or politicians, will be peculiarly gratified by it, ought not to impose upon us at this late day; for we know, that expectations, excited by such representations, have too often vanished in a subsequent selfish, speculating and demoralizing distribution of the stock. Neither ought we to be unmindful, that not unfrequently, the prominent men who seek the incorporation of new banks, are the very same who have deeply participated in the original stock of most of the previously established banks. Having disposed of that stock at a lucrative advance, and their avidity being sharpened by repeated gratification, they become more importunate and vehement in every fresh attempt to obtain an opportunity of renewing their speculations. It is also worthy of preliminary notice, that the apparent unanimity in favor of a measure which often surrounds the capital when the legislature are beset with bank applications, is no real indication of the sentiments of the community at large.

One prominent objection which meets us at the threshold of an examination of this subject is, that the vaults of banks are the reservoirs into which the specie is collected, and where larger quantities of it are at all times accessible by those who may wish to send it out of the country, than would be the case were the specie left diffused, instead of the paper.

Bank stock is generally owned by the speculating, the wealthy, and the aspiring part of society. An amount of their personal property, equal to that vested in stock, is withdrawn from other applications and appropriations of it, which would probably be more beneficial to the agricultural, manufacturing and laboring interests. Hence arises the difficulty experienced by enterprising farmers, manufacturers and mechanics, to raise money at lawful interest upon the best security; and hence it follows, that the necessity of temporary pecuniary relief, frequently drives them into the embraces of unprincipled, avaricious usurers, who fertilize upon the wants and distresses of the needy and unfortunate.

The influence of the wealth amassed and concentrated in bank stock, wielded under the direction of a few persons not accountable or responsible to the community for their conduct, nor re-

strained by any official oath, may be devoted to a sway over individual passions, sentiments and exertions, alarming in a representative government. A diligent observer will have already perceived one palpable operation of this influence on public sentiment, in the fashionable, erroneous opinion which prevails, that there is greater sanctity in corporate, than in individual property and rights, and that the one is less amenable than the other to governmental control, and less subservient to any paramount public good.

The multiplication of banks encreases the facility of counterfeiters to make depredations on society, and their operations are almost exclusively prejudicial to the less wealthy part of the community, whose business does not familiarise them with the great variety of paper money which is put afloat. The last mentioned part of society are generally the most moral, upright and useful members thereof, and are the main dependence of government in times of danger and of war. Of them, therefore, the legislature ought to be the peculiar guardians. A recent detection of immense quantities of false bills creates serious apprehension that the amount of forged paper already emitted, bears a great proportion to the quantity of genuine paper in circulation; and if so, how will the country be deluged with the former, if the facilities for putting it off be multiplied?

One of the baleful consequences of banks, is the facility with which credit may be obtained by certain descriptions of persons in and near cities and villages through the medium of a responsible endorser. The fictitious capital thus acquired by a man, inspires confidence in all descriptions of dealers and mechanics, who consequently trust him. Whenever adversity overtakes him, the property on hand is immediately transferred to the endorser to secure the bank demand. This course is dictated by a sense of gratitude to the endorser, and by a desire to propitiate the good will and future patronage of the bank: and it thus happens, that whilst the bank obtains full payment, more humble creditors, who have trusted the insolvent, in consequence of the imposing appearances, with which that very bank invested him, lose the utmost farthing of their dues. Hence, and not from the defect of the insolvent law, as is generally imagined, proceeds the universal complaint, that the estates of insolvents yield no dividends to ordinary creditors.

The wound which the morals and reputation of neighboring states have experienced from a too great indulgence of the bank mania, and the present depreciated credit of bank currency, there and in England, furnishes a lesson of vast importance to patriotic and upright statesmen. The paper of the late bank of the United States had an unbounded credit and circulation. At its first creation, there were few rival institutions in the great mercantile cities, where its branches were established, and it therefore enjoyed the deposits and business of the first houses and characters in the union. It was also patronised by the exclusive deposits of the general government, to the amount of near twenty millions annual-

ly, which added greatly to its ability for accommodation; and if that bank with such unprecedented advantages, can neither make a dividend for the present year, nor redeem the original stock at par after payment of its debts, which is evident from the price of its stock, what would be the fate of many of our present banks, were their affairs brought to a close? And they will assuredly be brought to a close whenever a material shock shall be given to the credit and circulation of their paper. The then disastrous consequences are incalculable, consequences which will not be confined to cities and villages, but will pervade in a more eminent degree, the agricultural parts of the state.

To facilitate commercial operations, is the ostensible pretext for soliciting bank charters, and is the only justification for granting them. But at this moment, commerce is almost annihilated, and therefore there exists now no necessity ostensible or real for the multiplication of banks.

There is one other consideration of emphatical influence at the present period. It is well known that stock is generally considered an unfit subject of taxation, and in fact is not included in the taxable fund, nor does it contribute to discharge the public burdens, nor is it liable to distress, or to seizure or sale upon execution. To increase, therefore, the amount of that intangible kind of property at this moment of apprehended war, would be justly considered a partial exemption from contribution towards the public burdens of so many millions of the personal property of the rich. With what indignation would the yeomanry, the great body of our constituents, receive the intelligence of measures directly calculated to increase their burdens by a partial indulgence to the property of the rich?

Finally, we must be feelingly alive to every thing which has a tendency to impair confidence in the public functionaries. If the interests and the sentiments of the great mass of our constituents are opposed to the further incorporation of banking associations: if their institution will greatly facilitate forgers in passing false bills: if the suspension of commerce takes away the only plausible and rational pretext for countenancing them: if the wisdom taught us by the experience of neighboring states, of foreign countries, and by the supposed situation of the late United States bank, confirm and proclaim the danger to be anticipated from assenting to the increase of the number and capital of banks: if they contribute to drain the country of specie and discourage agriculture and manufactures, by withdrawing from their uses and appropriations more beneficial to them, the money of the affluent: if they have an influence which enables them to obtain the whole property of insolvent debtors, to the injury of other creditors: if their tendency be to the subversion of our government, by vesting in the hands of the wealthy and aristocratic class, powerful engines to corrupt and subdue republican notions: if the augmentation of bank capital, causes an equivalent curtailment of the taxable fund, and will thereby relieve the wealthy stockholders from their equal share of

contribution to the public service, and proportionably enhance the tax on the hard earnings of the farmer, manufacturer, mechanic and laborer: if the wisdom and example of the national government be worthy of respect or imitation: and if we still persevere in multiplying banks, will there not be danger of infusing into the public mind a suspicion, either that we yield too pliantly to the management and pressure of external combinations, or that the unhallowed shrine of cupidity has its adorers within the very sanctuary of legislation? Such a suspicion will be the prelude to the downfall of republican government, for it is erected and supported upon the affections of the people at large, and upon their faith in the inviolable firmness, and probity of their public agents, and when once the foundation is removed the superstructure must fall of course. Let us, therefore, conscientiously endeavor, so to dispose of the various bank applications with which we are to be assailed, as to promote the general welfare, and at the same time, to retain and confirm public confidence, not only in the wisdom, but also in the unbending independence and unsulcied integrity of the legislature.

A communication from the Chancellor of this state, relative to certain existing evils in the administration of justice, in the high and important tribunal over which he presides, is now presented. Your discernment and watchful care over the rights of your constituents, and the dignified and respectable source from whence the representation of the existence of those evils is derived, will doubtless engage your best efforts to devise and apply the appropriate remedy.

The report of the commissioners of the school fund, shortly to be laid before you, will attract your attention to the diffusion of useful knowledge, and the consequent promotion of virtue and happiness.

The flourishing state of domestic manufactures, and the share which the encouragement and bounty of the legislature has had in contributing to their activity and success, and the consequent independence of the country, prompt to a continuance of every countenance and support compatible with our resources.

On a former occasion, I had the honor of communicating to the legislature my ideas of corporeal and capital punishments. I shall not therefore dwell upon that theme now, longer than to repeat that I have always entertained serious doubts of the right of society to take away life in any case. That such extreme and vindictive punishment is by no means indispensable for the preservation of the social compact or for the peace and security of society; and that it is offensive and repugnant to those sympathetic emotions, those beneficent virtues, and that refinement of policy and of reason which adorn civilized and free communities. If by inviting your reflections once more to this interesting topic, I shall be so fortunate as to subserve the cause of humanity, by effacing from our revised code that vestige of barbarism, it will be to me a source of high and durable satisfaction.

GENTLEMEN,

For the unusual length of this address, my only apology is to be found in the great variety and importance of the matters which will necessarily engross your attention.

With an acknowledgment of my high sense of your patient indulgence, I offer a fervent prayer to Him, who directs the passions and talents of man, and controls the destinies of nations, to inspire us with unanimity, patriotism and wisdom, in the performance of the high and responsible duties of our respective stations, and to grant that our services may redound to the lasting happiness and welfare of the state.

DANIEL D. TOMPKINS.

Albany, January 28, 1812.

Agreeably to the Proclamation of the Governor, the Legislature met at the City of Albany, on the third day of November, one thousand eight hundred and twelve, when he opened the session with the following

SPEECH :

GENTLEMEN OF THE SENATE AND OF THE ASSEMBLY,

A few days after the last adjournment of the legislature, a declaration of war was officially announced by the United States, against the united kingdom of Great Britain and Ireland, and its dependencies. The great exposure of a vast range of our southern, northern and western frontier to annoyance from the enemy, and to the depredations of savages in alliance with him, rendered the proclamation of hostilities during the recess of the legislature an event peculiarly interesting to the citizens of this state, and imposed upon the executive a task of immense responsibility and embarrassment. I considered it obviously a paramount duty to apply to the resources which the foresight and liberality of the legislature had placed at my disposal, in such manner as not only to provide a security for the property and lives of the inhabitants of the frontiers, but also to subserve the national will by facilitating the operations of the general government for a vigorous prosecution of the war, as the most certain means of bringing it to a speedy and honorable termination. My endeavors to accomplish these objects have been generously seconded by the officers and soldiers of the militia.

It was to be feared whilst Great Britain held not only the dominion of the ocean, but was permitted to maintain an undisputed supre-

macy on the lakes also, that the burthen of the militia of this state in particular, in the first campaign of the war, would be extremely arduous. Accordingly most of the detached militia, together with a considerable number of independent uniform and volunteer companies, have been called into actual service, either at New-York, Buffalo, Lewiston, Niagara, Oswego, Sackett's Harbor, Ogdensburgh or Plattsburgh, or in frontier towns between those places. It affords me great satisfaction, however, to inform you, that it is confidently expected that the appropriation made in June last, to meet the emergency of invasion or war, will be adequate to defray all the expenses hitherto incurred on the part of the state.

In reflecting upon the events and consequences of the war from its commencement to the present period, we find more cause of exultation than could reasonably have been expected, considering the pacific structure of our national government; the enjoyment of nearly thirty years of peace, the smallness of our navy, the very limited number of our regular and disciplined troops, and a temporary deficiency of many munitions. Nearly as great a proportion of homeward bound merchantmen have escaped capture as has been customary during the last three or four years of peace. The market for the produce of the farmer has experienced an unexpected and unusual rise instead of a depression. Upon the ocean and the lakes, wherever our gallant tars have come in contact with the enemy, their conduct has given lustre to the American character, and in some instances their achievements have been brilliant beyond example. It cannot but be expected that the general government, impressed with the propriety, the justice and the indispensable necessity of yielding more ample protection to our commerce, and of rendering the American nation more formidable in war, will increase our naval establishment to the extent warranted by the resources and spirit of the nation.

Although the surrender of the north-western army is greatly to be deplored and tended to increase the difficulties which the militia of this state have had to encounter, and to retard the operations of government; and although the attack on Queenston did not eventuate propitiously, yet it cannot for a moment be doubted that the issue of the contest will be glorious to our country. Reverses were to be expected in the first outset of inexperienced troops. These have originated not in a want of valor in our soldiers or of resources in our country, but in the unavoidable difficulties, under existing circumstances, of directing the one and developing the other, on a sudden emergency, with the greatest advantage. In the attack of Queenston, however, and in the affair of Brownstown, prior to the surrender of Detroit, and on various other occasions, the army and militia have invariably exhibited the deliberate and undaunted bravery of veterans.

I beg leave, respectfully, to recommend to your consideration, the propriety of making suitable provisions for the families of

those officers and soldiers of the militia of this state, who have been disabled, or who have fallen in the battle of Queenston.

It has not been usual to protract the November meeting of the legislature, beyond the time required to discharge the important trust of designating electors of president and vice-president of the United States. But an imperious duty requires that the case of John Bowman, convicted of the crime of murder before Mr. Justice Thompson, at the last court of oyer and terminer held in the county of Herkimer, be submitted to your immediate attention. The official communication of the presiding judge is now delivered. The unequivocal guilt of the convict on the one hand, and his tender years on the other, make your duty with respect to him, extremely delicate and responsible. This is the only matter of an extraordinary nature which I shall at present press upon your notice. Should you, however, be disposed to devote attention, during the present session to other subjects, upon an intimation of that intention, I shall do myself the honor of furnishing you, by special message, a detailed statement of the arrangements and proceedings which have been adopted subsequently to the declaration of war. In the mean time, I cannot refrain from seizing the earliest opportunity of suggesting some imperfections which experience has pointed out in the existing mode of detaching militia for public service, that the application of suitable remedies may be the subject of your reflection during the recess of the legislature.

All persons above the age of forty-five years, amongst whom it is to be presumed the greatest proportion of wealth is distributed, and a great variety of persons under that age, are exempt from military duty altogether in time of peace, and there is no provision which subjects them to any contribution or duty in time of war. Besides, the penalty for the disobedience of those who are liable to militia duty and who are detached for actual service is pecuniary only, and the fine is neither appropriated to the benefit of those whose circumstances do not enable them to evade actual service in that way, nor to provide substitutes for those who elect to pay the penalty. The consequence is, that an affluent portion of the community do not participate in the danger and burthens of service at all, and many of the most wealthy of those who may be detached, avoid taking the field by the payment of a trifling amount, scarcely exceeding the value of the requisite clothing and equipments to fit a soldier for service; whilst the more indigent, perhaps with young families to support, are alone subjected to the sacrifices of supporting the government and defending the lives and property of their fellow citizens, and receive a compensation, which, in comparison with their earnings at home, is but a mere pittance. Every principle of policy and justice requires, that some other system be devised by which the hardships and perils of defending the country, shall be more equitably diffused.

GENTLEMEN,

Notwithstanding differences of opinion upon a variety of local and other subjects may exist amongst us, yet in the propriety of respecting and of yielding our exertions to support the national will, constitutionally expressed, and to preserve the rights, honor and character of the American nation unimpaired, we must all heartily concur. Inspired by these sentiments, our united efforts, under the smiles of Providence, cannot but be honorable to ourselves and conducive to the lasting happiness and prosperity of our beloved country.

DANIEL D. TOMPKINS.

Albany, November 3, 1812.

The Legislature met at the City of Albany, on the twenty-fifth day of January, one thousand eight hundred and fourteen, when the Governor delivered the following

SPEECH :

GENTLEMEN OF THE SENATE AND OF THE ASSEMBLY,

It would have given me great satisfaction to have had it in my power to congratulate you on this occasion upon the return of the advantages and blessings of peace. The government of the United States, both before and since the commencement of the present war with Great Britain, has uniformly evinced a disposition to adjust, upon liberal and reciprocal terms, the existing differences between the two nations. The appointment of envoys plenipotentiary, who repaired to Europe so early as May last, upon the proffered mediation of the Emperor of Russia, furnishes an incontestible proof of that disposition. It does not appear that a spirit equally conciliatory has influenced the councils of the enemy. The good offices of the Emperor have been declined, and a proposition has been submitted to our government by the Prince Regent for transferring the theatre of negotiation to London or Gottenburgh. The president has given further evidence of his desire to terminate the calamities of war by acceding to that overture also. It is to be hoped that the contemplated negotiation may result in the conclusion of an honorable and lasting peace. But when we consider that pacific conferences are greatly procrastinated by the proposed change of the place of treating ; when we reflect upon the non-acceptance by the Prince Regent of the mediation of his illustrious friend and ally ; upon the former inadmissible pretensions of the British government and

upon the terms of Lord Castlereagh's recent communication to the secretary of state, our hope of a favorable issue ought not to be sanguine. If the late proposition has proceeded from a willingness to restore amity upon principles which may be mutual and consistent with the established maxims of public law, the impending conferences will very probably eventuate propitiously. But we ought not to permit the hope of that result to lull us into a fatal security ; for it may be that we must ultimately depend upon an unanimous, vigorous and successful prosecution of the unavoidable contest, in which we are involved, for the establishment and security of our just rights.

It was not to be expected after so long a period of peace, that upon the first declaration of a war by the United States, a well organized and efficient army could immediately be brought into the field. There was little of the experience of the revolution remaining in the country, and to develop military talents and national resources and to give them the most wise and beneficial direction is the work of time. In tracing the progress of our arms in the late campaign, however, there is as much cause of pride and congratulation as it was reasonable to hope for.

The navy has maintained, if not brightened, the lustre of its antecedent character. Arduous battles and brilliant victories, surpassed by none recorded in the annals of history, and which have given splendor to the American name, have been fought and won by it.

The capture of York, the taking of Fort George, the conquest of Proctor's army, the subjugation of the western Indians, the successive victories over the Creeks, the defence of Sandusky, of Sackett's Harbor, and of other places, were honorable to our arms and have exhibited traits of conduct and intrepidity in the army that justify high expectations. These gratifying events, it is true, have been followed by some disappointments and disasters.

Public expectation was highly excited by the last movement of the main army and was greatly disappointed at the failure of the supposed object of that movement.

The recent invasion by the enemy of the western frontier of this state, and the extraordinary surrender to him of the garrison and fort of Niagara, the burning of flourishing villages and settlements ; the pillage of private property, and the massacre of peaceable inhabitants of that frontier by a savage foe, are melancholy occurrences, calculated to excite the liveliest sympathy for the sufferers, and to rouse the indignation of every friend of humanity and of his country. The conduct of the enemy during that invasion was marked by a disregard of the rules of civilized warfare, and by a malignant ferocity. Many of our fellow citizens, who were at peace with their families, were murdered and scalped. The bodies of many of those who were wounded or taken prisoners in the engagement at Black Rock, have been found mangled in the most shocking manner by the tomahawk and scalping knife.

The distresses of the families who have thus become the victims of a cruel and unprecedented warfare call for the immediate and liberal interposition of the legislature. The character and dignity of the state, as well as justice to our exposed and suffering fellow-citizens, demand the exertion of its utmost power and resources to punish the atrocities of the enemy, and to render that frontier secure in future from his incursions and cruelties.

The measures which were taken upon that emergency, with the requisitions, correspondence, orders and reports relating thereto, will be specially communicated without delay.

You will permit me, gentlemen, to remark in this place, that the want of some legal provision whereby the burthen of defence may be more equitably diffused, and the less wealthy part of the community be relieved from the disproportionate share of actual service to which they are subjected by the existing laws, the want of legal power for enforcing summarily obedience to the authority delegated to officers by the militia law, and to supply food, quarters and transportation for troops, called out under state authority, render it impossible for the militia generals to repel invasions immediately and effectually.

I must likewise be indulged in again soliciting the attention of the legislature to the propriety of raising corps of volunteers, of giving them suitable remuneration for their clothing and an increase of pay. These corps might take the field upon any emergency, without the tedious process of detaching, assembling and organizing men from remote districts, and would perform any actual service which might legally be required more usefully than detached militia.

By an act of congress passed in June last, a direct tax was laid upon the United States, and in the apportionment, the sum of four hundred and thirty thousand one hundred and forty-one dollars and sixty-two cents, has been imposed upon the state of New York. The same law distributes the quota of each state in the several counties thereof, but authorizes the state legislatures previously to the first day of April next, to vary the apportionment, and entitles each state to a deduction of fifteen per cent. upon paying its quota into the treasury of the United States, before the tenth day of February next, and of ten per cent. if paid before the first day of May next. The limitation of time to have the benefit of deduction of fifteen per cent. is extended by a late supplementary law to the 20th day of February. The advantages which will accrue to our citizens, and of course to the state, by the payment of this quota directly from its treasury, are too obvious to be enumerated. The saving to the citizens of the state of about sixty five thousand dollars, and to the nation of the expense of assessment and collection, will amount to nearly one hundred and thirty thousand dollars. The number of inhabitants and the amount of wealth of the respective counties of this state, vary essentially from year to year; so that it is scarcely possible, at any one time, to make a per-

fectly equitable distribution of a tax amongst them. A considerable part of our unsettled lands are owned by non-residents. The inconveniences and sacrifices of the inhabitants of some counties, arising from their exposure to the enemy, and from the frequent calls which have unavoidably been made upon them to perform actual militia duty, have been such that it would at this particular juncture, be unreasonable and severe to levy upon them any part of the direct tax.

The state can advance the present tax without any material embarrassment of its treasury or call upon its citizens.

In the year one thousand eight hundred and eight, a loan at seven per cent. was made by the state to its citizens, for their accommodation and relief, under the then restrictive laws. The privilege of borrowing from divers banks, at five and six per cent. interest, is reserved to the state in the acts giving or extending their several charters. It is, therefore, in our power to borrow, at a moderate interest, the amount of the direct tax before mentioned, to advance it for the benefit and accommodation of our citizens, and to appropriate and pledge for its repayment the securities taken for former loans by the state. The importance of this subject to our constituents and to the interests of this state and of the nation, will, I trust, recommend it to your early and serious attention.

Soon after the last adjournment of the legislature, two persons were convicted in this city of the crime of murder : the one as principal in the first degree, and the other as being present, aiding and assisting in the commission of the crime. I judged it to be my duty to suspend the execution of one of them. The report and documents upon which this respite was founded are now presented to you.

GENTLEMEN,

The progress and success of domestic manufactures and improvements of every kind ; the high price obtained by the husbandman for the products of his labor, and the general health, prosperity and tranquillity (except in the lamented instances already noticed) which has prevailed within our state during the last year, call upon us to render fervent gratitude to that indulgent Providence, who has mingled so many of the enjoyments and benefits of peace with the afflictions of war. Let us therefore implore Him to continue his benedictions upon our beloved country, and to grant us unanimity, patriotism and wisdom, to pursue, at this important session, the most essential interests of this state and of the union.

DANIEL D. TOMPKINS.

Albany, January 25, 1814.

Pursuant to a Proclamation of the Governor, the Legislature met at the City of Albany, on the twenty-sixth day of September, one thousand eight hundred and fourteen; and on the day following, the Governor met the two houses, in the Assembly Chamber, and opened the session with the following

SPEECH:

GENTLEMEN OF THE SENATE AND OF THE ASSEMBLY,

THE extreme pressure of public business, and the peculiar emergencies of the war in which we are engaged, induced me to call this session of the legislature. At the close of the last session, a confident expectation prevailed, that existing hostilities would soon be terminated by a fair and honorable peace. Great Britain, it is true, had declined the proffered mediation of the Emperor of Russia; yet, as far as professions could be relied on, she was still disposed to restore amicable relations between the two countries upon satisfactory and mutual terms. Subsequent events, however, have shewn that such hopes were fallacious. Whether originally insincere in his professions, or flushed by the recent events in Europe, and the vast disposable forces they have left at his command, the enemy has certainly assumed a tone of arrogance and a spirit of increased hostility incompatible with feelings of reconciliation. The most palpable delays and evasions have been practiced to defer a meeting of negotiators, while in the mean time large armaments have been dispatched to our coast, and powerful armies collected on our frontiers, in the presumptuous hope of overwhelming us in a single campaign. A predatory and wanton warfare, destitute of all generous principle, and disgraced by pillage and conflagration, has been carried on in our bays and rivers; and the enemy has openly avowed his intention of laying waste our cities, and of making a common ruin of public and private property.

But beside the general causes of alarm, our apprehensions have been more immediately awakened for our own security, and we have been called upon to exert all our forces to protect our own homes from desolation. From information received, and corroborated by the movements of the enemy, there were sufficient grounds of belief that one great object of his campaign was to penetrate with his northern army by the waters of Lake Champlain and the Hudson, and by a simultaneous attack with his maritime force on New-York, to form a junction which should sever the communication of the states. To defeat this arrogant design, to save the state from inroad, and our cities from destruction, it was necessary immediately to exercise fuller powers and more ample resources than had been placed in my hands by the legislature. The exigency of the time, while it subjected the executive to great responsibility, admitted of no delay. I proceeded, therefore, to make such dispositions as were deemed indispensable to secure the exposed

points against menaced invasion. To effect these objects, I found it necessary to transcend the authority and means vested in me by law ; but I feel perfectly satisfied, that the legislature will approve and sanction what I have done. In the mean time, I have requested this session for the purpose of devising further measures of security and defence, and of clothing some public officer with the requisite powers to carry them into effect. A particular detail of the steps which have been taken, and of those which appear to me essential for the future safety of our frontiers, will form the subject of a special communication.

When we reflect that the present campaign was one in which the enemy had threatened to visit us with his wrath, and to make us feel his power, we cannot but exult that thus far we have sustained the shock with firmness, and have even gathered laurels from the strife. He has, it is true, been able to maraud our seaboard, and harass and ruin individuals. He has even penetrated to our capital, feebly opposed by a hasty levy of undisciplined militia, and has wantonly demolished edifices and monuments of art, hitherto held sacred in all but barbarous warfare. But whenever we have met with him in fair and open contest, the result has been signally honorable to our arms. A series of brilliant actions, which shed lustre upon the Niagara army, has entitled its distinguished generals, Brown, Scott, Porter, Gaines, and Ripley, and their brave associates to the lasting gratitude of their country.

The gallant deeds of Porter, Warrington and Blakesley, have well sustained the splendid character of our navy. At the invasion of Baltimore the foe was promptly met, was harassed in his approach, and fled back with heavy loss to his ships. But the late glorious triumph at Plattsburgh, for grandeur of circumstance and importance of effect, renders all encomium feeble and inadequate. This was the blow by which the enemy hoped to lay open our northern frontier. He advanced with confidence in the superiority of his land and naval forces, and counted on a certain victory. After a severe and bloody contest, his whole fleet was conquered and captured in the sight of his astonished army. His land troops were likewise discomfited and driven to a precipitate and ignominious retreat before a handful of regulars under Brigadier General Macomb, and an inconsiderable body of the militia and volunteers of New-York and Vermont, under Generals Mooers and Strong. The conduct of our troops on that occasion, both in repulsing the powerful assaults of the enemy, and in pursuing and harassing him in his retreat, reflects the highest honor on the commanding officers and their companions in arms.

The achievement of Commodore Macdonough and his intrepid comrades is not surpassed in the records of naval history. It sheds glory on the nation at large ; but its immediate benefits are more peculiarly felt by the states of New-York and Vermont. Permit me to recommend a prompt and public expression, by the constituted authorities of this state, of their high sense of the

illustrious services of these brave men, who have so eminently contributed to the safety and glory of the nation ; and the presentation of some testimonial of gratitude, worthy of the dignity of the state, and the acceptance of gallant and high-minded heroes.

I have heretofore submitted to the consideration of the legislature, the propriety of relieving the poorer classes of community from bearing that unreasonable proportion of the burthen of militia duty, to which they are subjected by the existing laws. I must be permitted to renew my solicitations upon that subject. The experience of this campaign has furnished abundant evidence of the unequal operation of the present system, and has shewn the indispensable necessity of substituting property as the criterion of contribution to the public defence. We may then establish a more disposable, better disciplined, and more economical and efficient force, than can possibly be organized from militia at large, hastily assembled, at a moment of hurry and alarm. The population and resources of this state enable us to place at the disposal of the nation, for the continuance of the war, ten thousand uniformed troops, and to reserve for local defence, ten thousand minute men, uniformed, equipped and disciplined, to take the field at a moment's warning, as a substitute for ordinary militia. It is, however, due to the militia of this state, to acknowledge, that they have repaired to their country's standard, whenever summoned, with promptness and alacrity ; that they have cheerfully endured the hardships and privations of the camp, and that they have generally conducted themselves in action with the coolness and bravery of veteran troops.

GENTLEMEN,

It is with heartfelt satisfaction that I witness the unanimity and patriotic spirit that actuates all classes of the community. The acrimony of party has disappeared in the combined exertion for the maintenance of national honor and common safety. The present time will form a proud era in the history of this state. It will develop the vastness of her resources, the strength of her population, the intelligence and liberality of her legislative bodies, and the valor and patriotism of her citizens. She has it in her power to assume an attitude worthy of her intrinsic character, to set an example of open handed munificence that will challenge emulation, to impart vigor and effect to the national arm, and thus to secure and perpetuate the independence of the United States.

DANIEL D. TOMPKINS

Albany, September 27, 1814.

The Legislature met at Albany on the thirty-first day of January, one thousand eight hundred and sixteen; and on the second day of February the Governor made this

SPEECH :

GENTLEMEN OF THE SENATE AND OF THE ASSEMBLY,

IN meeting the legislature for the first time since the termination of the war with Great Britain, allow me to congratulate you on that event, and of the negotiation of an honorable, and, I trust, a permanent peace. Sensible of its blessings, we ought to ascribe its attainment to the direction of that Providence under whose auspices we have been protected through the perils and embarrassments of war.

It is with the proudest sensations, we can recur to the character and incidents of the late war, to the unwearied valor and firmness which marked the progress of our arms through every vicissitude of peril and discomfiture, which courted every exposure and braved every danger, and which in its termination, has, in an eminent degree, contributed as well to strengthen our confidence in the efficacy and stability of our political institutions, as to elevate our national character abroad.

It had been matter of much speculation, whether our government, in its organization, was well calculated for a state of war; and it had been apprehended that, wanting the consolidated energies of a monarchy, its powers would act without concentration, and of course, without effect. The late glorious contest has, however, established the fallacy of the objection, and the perfection of its system. It has presented, with some triumph to the world, the refutation of an opinion which denied to republics a capacity to resist the assaults of exterior hostility; and it has practically shewn that a free nation, not only destitute of the system, the science and experience which give perfection to military operations, but deprived even of the signal benefits resulting from unanimity, has been able to resist with success the most desperate efforts of an enemy enured to war, and possessing all the advantages of veteran force and experienced generals.

In becoming a belligerent, the government of the United States consulted alone the respect she owed herself, and assumed an attitude demanded by her wrongs, her honor, and a regard to her permanent prosperity, which made war necessary to the accomplishment of a peace which should again restore, upon an equitable basis, the long disturbed relations of amity and commerce. But among the events growing out of the late war, we cannot too much appreciate the elevation of the American character, and the pleasing contrast with periods anterior to its declaration. Remote from the collisions of Europe, her political influence in the scale of nations was scarcely felt; but the spirit with which she resisted the novel and

unauthorised pretensions of disguised hostility, the firmness with which she maintained a sanguinary and perilous contest and the moderation she has shewn, after the causes of the war had, by subsequent events, been essentially removed, in the arrangement of a peace, emanating principally from her valor and resources, have given her a rank in the convention of nations, which cannot fail effectually to guarantee the continuance of her pacific relations. Amidst these considerations, let not those who have achieved these great objects, under the most adverse fortunes, be forgotten. Let them not retire at once the objects of the respect and ingratitude of their country. I cannot but cherish the hope, that their sacrifices and their sufferings will early command the attention of the national legislature.

The decision with which the subsequent war with Algiers has been conducted, has given a new proof as well of the wisdom and firmness of those to whom the public functions of government have been entrusted, as of the necessity of that description of maritime defence so peculiarly adapted to the commercial character of our country. In this achievement is to be found another instance of the high courage and conduct which on every occasion have distinguished the gallant commander of that portion of our naval force, and his brave associates.

In estimating the blessings of peace we cannot be too strongly reminded of the necessity of preparing for every vicissitude. Our growing commercial character, the jealousies excited by our free form of government, the recent brilliant achievements of our army and navy, our improvements both in the arts of peace and war; and our enterprise and resolution, render this country an object of inquietude and apprehension to those nations whose commercial pursuits and influence must unavoidably come in collision with those of the United States. I cannot therefore too strongly enforce on those who are selected as the guardians of the public safety, the indispensable necessity of providing against future and contingent danger, the means of prompt and vigorous resistance. To say that the general government is alone entrusted by the constitution with the power and means of providing for general defence, is to deny the application of those ordinary precautions which self respect and self defence impose on each state: With it we participate equally in the responsibility of guarding and defending our territory, and with hers we ought to unite our efforts for a general defence.

I cannot pass over this occasion without again calling the attention of the legislature to the propriety of a new organization of the militia, a power competent from its resources to fulfil the high destination of being the bulwark of the state. Recent events have confirmed that opinion by practical illustration; when under competent commanders, the militia have been led through privation, fatigue, and peril, to the accomplishment of many of the most important military operations. On former occasions, some

of the defects of the existing militia laws have been presented to the legislature, and endeavors have been made to shew that they are incompetent to the objects contemplated, and in time of war operate unequally. I cannot forbear remarking, that no period can be better adapted to a revision of our military code, than during the present tranquil state of the country. Our exposure to attack, and the difficulty of commanding our resources when assailed, present strong inducements for a co-operation with the United States in giving form and effect to that system of defence, which, in the opinions of the framers of the constitution, was calculated for most of the emergencies of the nation.

The difficulties and expenses which attended the transportation of public stores, to frontier posts, during the late war, have demonstrated the necessity of a legislative intervention to encourage the establishment of good roads from the Hudson to the St. Lawrence, and to Lake Erie, Ontario and Champlain : and on this subject, allow me to remark, that neither the convenience of turnpike companies, nor the security of the public from imposition, are promoted by conferring upon the executive the power of appointing commissioners to lay out roads, inspectors to examine them, or of issuing licenses to erect gates. This power would be more advisedly reposed in the first judges of counties, or in some other responsible and accessible officers, with the right to appeal from their decision.

It will rest with the legislature, whether the prospect of connecting the waters of the Hudson with those of the western lakes and of Champlain, is not sufficiently important to demand the appropriation of some part of the revenues of the state to its accomplishment, without imposing too great a burthen upon our constituents. The first route being an object common with the states of the west, we may rely on their zealous co-operation in any judicious plan that can perfect the water communication in that direction. As it relates to the connecting the waters of the Hudson with those of lake Champlain, we may with equal confidence, count on the spirited exertions of the patriotic and enterprising state of Vermont.

Among the objects that will necessarily invite the attention of the legislature, the situation of the manufacturing interests of the country ought not to be disregarded. The early effort they made to render their country independent of foreign supplies, not a little facilitated the operations of the late war. A neglect by government of their interests cannot but restrain, in the event of future hostilities, the direction that patriotism and enterprise would otherwise give to a great proportion of the capital of the country. It is a proposition too plain to require any observation to enforce it, that no nation can be really and substantially independent, which relies on any other for its essential supplies of clothing. The maintenance of our manufactures is, in my view, of deep interest to the present and future prosperity of our country, and I confidently recommend them to our patronage and protection.

In the course of last year, two persons convicted of arson, have been pardoned, on the condition of submitting to imprisonment in the state prison for life, at hard labor.

As the constitution invests the executive with the power of remitting sentences, for all crimes except treason and murder ; and as the laws authorise the insertion of conditions in the pardons to be granted, I can entertain no doubt of the propriety, or expediency, in some cases, of commuting the punishing of death, for perpetual imprisonment, by conditional pardons. This subject may, however, require some legislative provision, in relation to the powers and duties of the inspectors and keepers of the state prison. The judges of the supreme court equally with myself, regret that the crowded state of the present prison, has of late made it indispensably necessary to extend the list of recommendations for pardons, to a greater number than would otherwise have been deemed proper. They therefore suggest, in which I most respectfully concur, that the prison be enlarged, or that a new establishment be erected in the northern or western part of the state, which will have for one of its important effects, the reduction of a portion of the present heavy expenses incident to transportation of convicts from remote counties of the state.

The evidence and documents on which I have resorted, for the consideration of the legislature, the sentence of Thomas Burk, lately convicted of murder in New-York, will accompany a special communication.

Your superior wisdom, gentlemen, will suggest the variety of other subjects, which ought to receive the attention of the legislature. I have only therefore to add, that in the discharge of the important trust confided to us, to inculcate on our citizens the magnanimous sentiment, that in peace they should become the friends of those to whom they were enemies in war, to divest ourselves of that spirit of party which has heretofore jeopardized the best interests of the country, and which, if persisted in, may ultimately involve us in those deplorable scenes, by which modern Europe has been convulsed and almost desolated ; are duties of the highest obligation. In every object connected with those duties, or which may respect the honor or welfare of this state, you may be assured of the utmost support on my part.

DANIEL D. TOMPKINS.

Albany, February 2, 1816.

On the fifth day of November, one thousand eight hundred and sixteen, the Legislature met at Albany, for the purpose of choosing Electors of President and Vice-President, when the Governor opened the session with the following

SPEECH :

GENTLEMEN OF THE SENATE AND OF THE ASSEMBLY,

I avail myself of the present occasion to express to the people, through their representatives, my acknowledgments for the renewed honor conferred on me, by committing once more to my charge, the administration of their government.

The general state of peace in which mankind at length repose, is a subject of high felicitation. Europe, hitherto the theatre of perpetual and bloody contention, now presents a spectacle of nations at amity, rivalling each other only in quiet industry, commercial enterprize, and all the means of repairing the ravages caused by their long and cruel wars.

The southern part of our own continent is the principal exception to universal peace: There we behold a vast population, inhabiting a boundless extent of fertile territory, struggling to dispel the clouds of superstition, and to shake off the chains of foreign despotism. An effort so noble challenges the best wishes of the philanthropist, and cannot fail to receive the sympathy of the citizens of the United States ; and, if in the dispensations of Providence, it shall be decreed that our southern brethren may terminate their political sufferings in the establishment of a great confederacy of republics, mutually cultivating the arts and sciences, conducting extensive and liberal commerce, promoting agriculture, becoming respectable and happy at home and honored abroad, and dispensing all the blessings of political and religious freedom, this western hemisphere will present a scene of delightful contemplation.

Within our own borders every thing is tranquil and happy ; and although some of the productions of the earth have not been so abundant the past season as they usually are, a bountiful store, fully sufficient, with prudent foresight, to supply all the necessaries and comforts of life, is still left us. This and the general healthfulness of the season, call forth warm emotions of gratitude to the great dispenser of every good.

The present meeting of the legislature being appointed by law for a special purpose, I shall submit to your consideration at this time, such subjects only as are of pressing and indispensable importance.

In the month of September last, Daniel Northrop, of the county of Saratoga, was convicted of the crime of murder, and was sentenced to be executed on the last Friday of the present month. The jurors who tried him have requested that his punishment

may be commuted ; but the Chief Justice, who presided at the trial, is so well persuaded of the mental derangement of the unfortunate convict, that he does not think him a fit subject for punishment of any kind. It is, however, considered dangerous to permit him to go at large ; and therefore, if a pardon be granted, a condition that he be confined in some lunatic hospital or asylum is respectfully recommended.

The progress of vice keeping pace with the rapid increase of population, it becomes impossible to accommodate, in the single edifice at New-York, all the convicts which are sent from the different parts of the state. So crowded, indeed, is that prison, that serious apprehensions are entertained of infection, and other alarming consequences. For this reason many pardons are recommended by the judges of the supreme court, and the inspectors of the prison, on the plea of necessity, which perhaps, would not have been advised on the ground of merit. This necessity renders punishments more uncertain, and that uncertainty destroys the respect for, and operation of the laws, and as the grand melioration of our criminal code, which substitutes deprivation of liberty and subjection to hard labor, for sanguinary and capital punishments, will not have a fair experiment, or be truly tested, unless the mild sentences pronounced, are endured, you will readily perceive the high importance of removing the present embarrassments to the full execution of criminal sentences. The communication from the inspectors of the institution, which I now present, suggests several remedies for the existing evil. Without expressing an opinion on the propriety of ultimately adopting those which are experimental, and will be more difficult and tedious of accomplishment, it is respectfully submitted to your wisdom to make provision at the present session for employing a part, at least, of the state prisoners either in building the new prison at Auburn, erecting fortifications, opening and repairing great roads, constructing canals, or in making other improvements.

It is greatly to be deplored when capitalists had, from the purest motives of patriotism, and when the best interests of the country required it, adventured their property in them, that establishments for domestic manufactures should have been suffered to be suspended or even to languish. An appeal to the general government has produced partial relief ; but the utmost exertions of the state legislature, will be required to yield such further encouragement as will place manufacturers of domestic articles, upon an equal footing with the importers of foreign merchandize.

GENTLEMEN,

When we compare the situation of the United States with that of other countries, we have great cause of self gratulation. We find ourselves in the enjoyment of every rational right, civil and religious. Our government has proved itself capable of resisting the shock of most political changes which peace or war can pro-

duce. Its duration then, may confidently be predicted, coeval with the intelligence and virtue of the inhabitants.

The present state of the world, and the general disposition of mankind, are propitious to the encouragement of learning, the advancement of the arts, and the extension of religious information, the certain and only means of perpetuating our happy condition. As guardians of the prosperity, liberty and morals of the state, we are, therefore, bound by every injunction of patriotism and wisdom, to endow, to the utmost of our resources, schools and seminaries of learning, to patronize public improvements and to cherish all institutions for the diffusion of religious knowledge and for the promotion of virtue and piety.

DANIEL D. TOMPKINS.

Albany, November 5, 1816.

DE WITT CLINTON.

In the twenty-seventh day of January, one thousand eight hundred and eighteen, the Governor delivered the following

SPEECH:

GENTLEMEN OF THE SENATE AND OF THE ASSEMBLY,

AMONG the important duties enjoined upon the executive by the constitution, he is required to recommend such subjects to the consideration of the legislature; as shall appear to him to concern the good government, welfare, and prosperity of the state. On this occasion I feel a peculiar gratification in the performance of this duty, from a persuasion that I address myself to a legislature, competent to distinguish, and anxious to promote the true interests of our country.

As agriculture is the source of our subsistence, the basis of our strength, and the foundation of our prosperity, it is pleasing to observe the public attention awakened to its importance, and associations springing up in several counties to cherish its interest. Having received but a small portion of direct encouragement from government, it has been left to its own energies; and supported by a fertile soil, cherished by a benign climate, cultivated by industry, and protected by liberty, it has diffused its bounties over the country, and has relieved the wants of the old world. Relying hitherto almost exclusively on the fertility of our soil and the extent of our possessions, we have not adopted those improvements which the experience of modern times has indicated. And it has not been sufficiently understood that agriculture is a science, as well as an art; that it demands the labor of the mind as well as of the hands; and that its successful cultivation is intimately allied with the most profound investigations of philosophy, and the most elaborate exertions of the human mind.

If not the exclusive duty, it is certainly the peculiar province of the state governments to superintend and advance the interests of agriculture. To this end, it is advisable to constitute a board, composed of the most experienced and best informed agriculturists and to render it their duty to diffuse agricultural knowledge; to correspond with the county societies; to communicate to them beneficial discoveries and improvements; to introduce useful seeds, plants, trees and animals, implements of husbandry, and labor-saving machines; to explore the minerals of the country, and to publish periodically, the most valuable observations and treatises on husbandry, horticulture and rural economy. The county socie-

ties ought to be enabled to distribute adequate premiums ; and a professorship of agriculture connected with the board or attached to the university, might also be constituted, embracing the kindred sciences of chemistry and geology, mineralogy, botany and the other departments of natural history. By which means a complete course of agricultural education would be taught, developing the principles of the science, illustrating the practice of the art, and restoring this first and best pursuit of man to that intellectual rank which it ought to occupy in the scale of human estimation.

Good markets for agricultural productions are the vital incentive to agricultural industry : and nothing tends more directly to the promotion of these, than the establishment of cheap and easy modes of transportation, and the erection of flourishing villages, towns and cities, under the auspices of commerce, trade and manufactures. As foreign markets are always fluctuating in their prices, and uncertain as to their exigencies, we must rely principally on our own internal consumption for the stable and permanent support of agriculture. But this can only be effected by the excitement of other kinds of industry, and the creation of a great manufacturing interest. Every friend of this country must contemplate with regret the prostration of our manufactories. The excessive importation of foreign fabrics was the signal of ruin to institutions founded by enterprising industry, reared by beneficial skill and identified with the general welfare. The raw materials of iron, woollen and cotton manufactures are abundant, and those for the minor and auxiliary ones can in most cases be procured at home with equal facility. Nothing is wanting to destroy foreign competition but the steady protection of the government and the public spirit of the country. High duties and prohibitory provisions applied to foreign productions, afford the most efficient encouragement to our manufactures ; and these measures appertain to the legitimate functions of the national government. But much may be done by the state government by liberal accommodations, by judicious exemptions and by the whole weight of its influence, and much more may be accomplished by the public spirit of the community. For I am persuaded, that if every citizen who adopts the fabrics of other nations, would seriously consider that he is not only paying taxes for the support of foreign governments, but that he participates in undermining one of the main pillars of our productive industry, he would imitate the honorable preference which you have this day evinced in favor of American manufactures.

The internal trade of a country is equally essential to the prosperity of agriculture, of manufactures and of commerce ; for embracing the interests of all, it extends its enlivening influence to every important department of human industry. But it can never be advantageously nor extensively pursued and cultivated without easy and rapid communications by water courses, roads and canals : and it is among the first duties of government to facilitate the

transportation of commodities, by opening and ameliorating all the channels of beneficial intercourse; for in peace or in war it is equally essential to our cardinal interests.

The removal of the obstructions to the navigation of our principal river, has heretofore occupied the attention and received the assistance of the state. These impediments being principally occasioned by alluvial deposits and existing only at the head of the navigation, can be easily removed, if a proper plan be adopted. But instead of one concentrated effort, embracing the whole object and under the controul of one board, several attempts have been made at different points and under different commissioners. And as they were confined to the improvements of particular parts, their efforts have not been attended with complete success. The unexpended appropriations, in addition to what has already been done, will go far towards accomplishing this important work. And it is a subject worthy of your particular attention and of your munificent interposition.

The immense capital expended in turnpike roads has been very conducive to the promotion of inland trade. But the statutes prescribing the mode of constructing them, of inspecting them before the proprietors are authorised to receive toll, and of coercing their repair, are not sufficiently circumspect in their provisions nor energetic in their enforcements. The inspectors appointed to pronounce on the completion of roads are sometimes selected with an imperfect knowledge of their qualifications, and without any information as to their connexion with the proprietors of the roads to be examined, and their proceedings are conducted without the sanction of an oath, and are not restrained by any declared penalties. The statutes providing for keeping these roads in good order, have been in a state of inexecution in most of the counties in consequence of the non-appointment of commissioners. And it is not made the special duty of the ministerial officers of justice to complain when these communications are not maintained in a good state. Owing to this combination of unpropitious circumstances, the condition of these roads is a subject of general and well founded complaint, and calls loudly for the application of efficacious correctives.

I congratulate you upon the auspicious commencement and successful progress of the contemplated water communications between the great western and northern lakes and the Atlantic ocean. Near sixty miles of the western canal have been contracted for, to be finished within the present year, and it is probable that the whole of the northern canal will be disposed of in the same manner before the ensuing spring.

Notwithstanding the unfavorable season, the inexperience of the contractors, and the late commencement of operations, it is understood that the work to the extent of fifteen miles has already been done on the western canal. And it is confidently believed that the aggregate expense will be within the estimates of the commission-

ers. The enhancement of the profits of agriculture, the excitement of manufacturing industry ; the activity of internal trade ; the benefits of lucrative traffic ; the interchange of valuable commodities ; the commerce of fertile, remote and wide-spread regions, and the approximation of the most distant parts of the union by the facility and rapidity of communication that will result from the completion of these stupendous works, will spread the blessings of plenty and opulence to an immeasurable extent. The resources of the state are fully adequate without extraneous aid ; and when we consider that every portion of the nation will feel the animating spirit and vivifying influence of these great works ; that they will receive the benediction of posterity and command the approbation of the civilized world, we are required to persevere by every dictate of interest, by every sentiment of honor, by every injunction of patriotism, and by every consideration which ought to influence the councils and govern the conduct of a free, high minded, enlightened and magnanimous people.

In 1815, an act was passed for incorporating a company for opening the navigation between the head waters of the Seneca lake and the Chemung River. And in March last a law was enacted by the legislature of Pennsylvania, authorizing the appointment of commissioners to view and examine the route of a contemplated canal to connect the waters of the Seneca lake and Tioga river, and to report on the practicability, importance and probable expense of making and completing it. In pursuance of which, commissioners have been appointed, have made the requisite examinations, and have probably performed the other duties assigned to them. Although the obvious tendency of this project is to facilitate the transportation of commodities from this to neighbouring states, yet from a full persuasion that the prosperity of our country will be best advanced by multiplying the markets for our productions, and by intimate and beneficial connections between the different members of the confederacy, I consider it our incumbent duty to overlook local considerations and geographical distinctions, and to afford our cordial co-operation.

The fund appropriated to common schools consist of about one million of dollars, and eighty thousand acres of land. The income for distribution this year is 60,000 dollars. Having participated in the first establishment of the Lancasterian system in this country, having carefully observed its progress, and witnessed its benefits, I can confidently recommend it as an invaluable improvement, which by a wonderful combination of economy in expense and rapidity of instruction has created a new era in education ; and I am desirous that all our common schools should be supplied with teachers of this description. As this system operates with the same efficacy in education, that labor-saving machinery does in the useful arts, it will be readily perceived that it is peculiarly adapted to this country.

For if by this means one teacher can perform the functions of

ten, and if a pupil can learn in one week as much as he would in one month in the common way, it is evident that more wealth, more labor, more time and more industry, can be devoted to the ordinary occupations of life without interfering with the dispensations of knowledge. Wherever it has been attempted, it has succeeded, and several parts of the state have experienced its benefits. Competent teachers can be educated for this express purpose, and in sufficient number to supply all our common schools, by sending intelligent young men to the Lancasterian seminaries in New-York, where they will be instructed gratuitously, and where in the course of a few months they will acquire sufficient knowledge of the system. Appropriations for this purpose by the several common schools out of their portion of the general fund, under the direction of the superintendent, will defray the small expense attending the attainment of this important object.

The flourishing condition of our higher seminaries of education is a pleasing demonstration of the increasing progress of mental improvement, and a powerful incentive to liberal dispensations of public patronage. Under the auspices of learned and enlightened instructors, our colleges are constantly increasing in students, and extending in usefulness: and the intermediate seminaries between the common schools and colleges have also greatly diffused the blessings of education. Funds to the amount of 750,000 dollars have been granted to the three colleges, and about 100,000 to the thirty-eight incorporated academies. While this liberality of patronage reflects honor on the state, it cannot be too forcibly inculcated, nor too generally understood, that in promoting the great interests of moral and intellectual cultivation, there can be no prodigality in the application of the public treasure.

The colleges of physicians and surgeons are eminently deserving of public consideration. The increase of the institution in New-York in the number of its students, in the amplitude of its accommodations, and in the respectability of its character, has kept pace with the science and celebrity of its professors. And the recent addition of distinguished teachers to the establishment in Fairfield places it on high ground, and in the road to prosperity and usefulness. The appropriations to medical education do not exceed 60,000 dollars, a sum by no means commensurate with the importance of the object. Every well educated physician becomes not only a conservator of health, but a missionary of science. Wherever he establishes himself, he will convey and communicate useful knowledge. Two hundred of our youth annually dispersed over the country, instructed in medical knowledge and its cognate sciences, will, in the course of a few years, effect an augmentation in the state of general information equally honorable and beneficial to the community. And no measure can be more conducive to the prosperity of our medical institutions, to the respectability of the profession, and to the preservation of the public health, than a law

rendering an attendance upon lectures in the university, an indispensable passport to medical practice.

The principal societies devoted to literature, science and the arts in the city of New-York, have, by the liberal patronage of the municipal authorities been collected in a spacious and accommodating edifice under the denomination of the New-York Institution. These associations are forming extensive and invaluable collections of the works of the fine arts, of our animal, vegetable and mineral productions; and of books and manuscripts illustrating our civil, ecclesiastical and natural history, our geography, antiquities and statistics. They are also zealously engaged in exploring the extensive field of natural science; in developing the principles of political philosophy, and in exalting the literature of our country. Whenever such institutions appear, they are entitled to the countenance of government, for there will ever be an intimate and immutable alliance between their advancement and the glory and prosperity of the state.

The state of our finances demands your mature consideration. It appears that the funds of the state amount to about \$4,500,000 00
And that the debts of the state amount to 2,710,082 50

Composed of the following specifications:

Stock, bearing 7 per cent interest,	\$1,106,397 50
Stock, bearing 6 per cent. interest,	777,000 00
Debt to the bank of New-York, bearing an interest of 6 per cent.	826,685 00
	<hr/> 2,710,082 50

It further appears that the sum total of expenditures for fortifications, arsenals, magazines, ordinance, arms, ammunition and other warlike stores; for the pay of militia, sea fencibles, and volunteers, is \$846,350 83

That the amount of direct taxes of the national government, assumed and paid by this state is, 1,113,126 23

Making in the whole \$1,959,477 06, of debt incurred by the state, in consequence of its patriotic exertions for the public defence, and for the payment of which a tax of two mills on a dollar has been imposed.

It will be observed that we pay a war interest of 7 per cent. for a considerable part of this debt. As the stock is redeemable, it will be easy to pay it off by a new loan at six per cent. It will be advisable to dispose of the three per cent. stock, and to apply the avails to the reduction of the debt. These proceeds, together with \$226,000 of the revenue of last year, and a new loan of 1,100,000 dollars at six per cent. will extinguish the whole of the present stock in May or June next, and leave about 150,000 dollars applicable to extraordinary purposes. The canal stock is not

included in this statement, because the finances of this work are to be kept distinct from the ordinary revenues of the state.

If this plan should be adopted, our debt would be reduced to 1,900,000 dollars.

I also recommend the reduction of the tax to half its present amount. The annual revenue will still be about 500,000; and as our permanent expenses, including the interest of the public debt, will not exceed 440,000 dollars, there will remain a surplus of 60,000 dollars applicable to extraordinary objects. This sum may be increased to upwards of 100,000 by financial improvements. The funds of the state will be augmented by the payment of the debt due from the United States, which has not yet been adjusted; and great and useful accessions may be made in other respects. The imposition of auction duties in lieu of those of the United States, lately withdrawn, will protect our regular traders, afford some relief to our manufactories, and enlarge the fund for internal improvement. The revenue from escheats, properly collected would be considerable, and a much greater sum may be raised annually by the lotteries already authorised by law. And it may be proper to observe that our financial operations may be facilitated by the establishment of an office for the transfer of stock in the city of New-York, which can be done without any expense.

This view of our finances is certainly encouraging. It shews that our debt may be greatly reduced; that our taxes may be diminished one half; that all our contemplated improvements may be executed, and that a great fund will still remain for all the beneficial objects of society.

The public lands have not been comprehended in this exposition of our resources. Including the town lots, the islands and our rights of pre-emption, together with the detached parcels and large tracts, I consider them fully equivalent in value to the whole debt against the state. The immense fund appropriated to schools and academies, has also been kept out of view, because I deem it a sacred provision for the education of the present and all future generations, which ought never to be disturbed, diverted or impaired.

With respect to the debt which will be incurred in the prosecution of internal improvements, there can be no doubt but that light tolls on our own commodities, and higher transit duties on foreign productions, will in a few years not only accumulate a fund for its extinguishment, but be a prolific source of revenue for the general purposes of government. And this subject may in other respects form the basis of important arrangements in our system of political economy. It may be rendered a powerful instrument for encouraging our own manufactures, and for restraining the pernicious use of foreign commodities.

The best systems of finance are, however, vain and illusory, without the practice of economy. Parsimony ought to be avoided as well as profusion, but all governments are too prone to give into

wasteful extravagance. Appropriations of public money should be cautiously made, and its expenditures carefully watched. The accountability of public agents should be enforced, and the ordinary forms of legislation ought never to be varied, unless in extreme cases. With the observance of these salutary precautions ; with the application of a well regulated economy, and the adoption of proper and judicious retrenchments, I feel a thorough persuasion that the flourishing condition of our finances may be completely restored ; that all our improvements may be successfully executed ; and that this state, rich in her resources, public spirited in her objects, wise in her deliberations, and determined in her purposes, may attain unprecedented prosperity.

Although the cultivation of the blessings of peace is most congenial with the spirit of our government, the precepts of religion, and the maxims of sound policy, yet the seeds of war and controversy are planted too deeply in the constitution of human nature for us to expect an exemption from the common fate of nations ; and the experience of the United States utterly forbids the hope. Since our existence as a nation, besides the war of the revolution and contests with the savages of this continent and the barbarians of Africa, we have been engaged in hostilities with France and Great Britain. We are in the neighborhood of British and Spanish provinces. Our enterprising spirit of migration and commerce will bring us in contact with the trading and colonial establishments of Russia. The West India islands, owned by different sovereigns, may in the course of time be a fruitful source of controversy ; and our extensive commerce will often render it necessary to vindicate our political rights against the aggressions of the belligerent powers of Europe. Even at this present period, the patriotic struggles of the people of Spanish America, for emancipation from the restraints of commercial monopoly, and the shackles of colonial subjection, may compromit our pacific relations. Whatever may be the cause, the time must arrive when it will become necessary to appeal to the sword, and this appeal ought never to be made without finding us in a state of ample preparation.

Permit me then to recommend to your attention the revision and melioration of our militia system.

The statutes relative to the militia were not revived in 1812, and it is now necessary to combine them into one law ; to reconcile their different provisions, and to engraft such amendments as experience has shown to be proper. It is believed that essential improvements may be made in the organization, dress and discipline of the militia ; in the imposition, collection, and disposition of fines ; in the promotion of military instruction, and in the encouragement of meritorious service or distinguished skill. In consequence of the imperfect state of some of the returns, the precise number of our enrolled militia cannot be ascertained, but it may be safely estimated at 120,000 men. This immense physical force, properly organized, arranged, armed, and directed, may defy the efforts of any enemy. But it ought not to be concealed,

that not one third of our militia is armed and equipped ; and that too in a very imperfect manner. This state does not own more than twenty thousand stand of arms. The act of congress of 1808, for arming and equipping the whole body of the militia, however well intended, is totally inadequate to the object. Our militia increases more rapidly than the supply, and even if our population were stationary, it would take near half a century before ample provisions could be derived from that source.

The constitution of the state ordains that the militia at all times, as well in peace as in war, shall be armed and disciplined, and in readiness for service, and that a proper magazine of warlike stores proportionate to the number of inhabitants, shall forever at the expense of the state and by acts of the legislature, be established, maintained, and continued, in every county. Although it has not been practicable to comply with these injunctions in their strict sense and to their full extent, yet it is certainly our duty as well from reverence for the constitution, as from regard for the public safety, to replenish our arsenals and magazines, and to give our physical force all the advantages of energetic arrangement and complete equipment.

The system of criminal jurisprudence which was adopted in 1796, has not realised the expectations of benevolence. The expenses of this establishment to the first day of the present month, amount to the enormous sum of \$976,157 44, of which the following are the principal items :

For erecting the prison, including the site,	243,346 00
For the support of the institution, exclusive of the compensation of the officers and guard,	374,846 70
For the salaries of the officers of the prison, exclusive of the guard,	155,324 43
For pay of the guard, including their arms, clothing, &c.	134,660 16
For transportation of convicts to the state prison, since 1812, inclusive, being before that year paid by the agent of the prison,	67,980 15

\$976,157 44

The efficacy of this system in reforming offenders, has not stood the test of experiment ; and as it is very difficult to obtain accurate accounts of the convictions under the old system, it is not in my power to state with certainty, whether crimes have increased under the new, because in order to arrive at a fair result, it is necessary to compare the convictions and the population under the operation of both codes : but I am induced to believe that in this momentous respect, it has not answered our wishes. It is with inexpressible regret that I am compelled by an imperious sense of duty, to make this communication. I have done it, not with a view of re-introducing sanguinary punishments, which are as abhorrent to my feelings as they are to the policy of good government, but to

attract your attention to this important subject, and to solicit the full exertion of your faculties in its investigation. I am persuaded that the Penitentiary system has not been subjected to a fair experiment, and that under a proper arrangement, and a virtuous and able administration, it will answer all the ends of criminal justice without imposing any great burden on the state.

It is reasonable to impute our disappointment in a considerable degree to the incompetency of the means provided for executing the system on an extensive scale. The want of room has been hostile to discipline, injurious to industry, and productive of heavy expense; and when the state undertook to carry on extensive manufacturing operations, it became liable to losses in every stage of their progress from the purchase of the raw material to the sale of the wrought article. The injudicious organization of the board of superintendence; the repeated changes in that body; and the unavoidable frequency of pardons have also produced detrimental effects. But making ample allowance for all these disadvantages, and comparing our Penitentiary with those of other states, I cannot resist the impression that there has been some radical error in the general management. It behoves the representatives of the people to institute a solemn enquiry; to ascertain the causes of the failure, and to apply the appropriate remedies.

The efficacy of the Penitentiary system might be signally promoted by the erection of solitary cells in the several counties for the punishment of all offenders below the degree of grand larceny, and by doubling the value of the property stolen in order to constitute that crime. Solitary confinement is, next to death, the most appalling punishment which can be inflicted on a human being; and the expense of erecting these prisons and of maintaining the convicts will be very inconsiderable, when compared with the importance of the object. Under our present code, the pardoning power has been frequently exercised in a salutary manner by prescribing as a condition that the convict to whom mercy is extended, shall depart from the state and never return. This is in substance the punishment of banishment, and it would be well to fortify the efficacy of such pardons, by imposing severe penalties for their violation.

As connected generally with this subject, it is proper to mention that the dispensation of criminal justice is attended with heavy, and it is believed, with unnecessary expense; and that great benefits might probably arise from some improvements in the system, and from a new arrangement of the Court of Exchequer.

In the case of creditors and debtors our law has departed from its general policy, and has authorised the former to wield the power of punishment by the imprisonment of the latter for a default in the payment of debts, without considering whether the failure be imputable to misfortune or to fraud. Within a few years this code has been relaxed, and the debtor has been liberated from close incarceration, and admitted to the benefit of extensive limits on giving security that he will not depart from them. The conse-

quence is that it entangles and holds only the poor and the forlorn, while those favored with friends or opulence escape from its severity. If the legislature shall consider it expedient to change the present system and exempt the unfortunate debtor from the penalties of imprisonment, rigorous provisions ought to be adopted for the punishment of fraud, and the rights of creditors should be fortified by the terrors of criminal punishment. But if it shall be deemed unadvisable to proceed to that extent, the poor debtor confined within the walls of a prison ought at least to be supported by his unrelenting creditor, and the repetition of scenes at which humanity shudders ought no longer to disgrace our country.

Our statutes relating to the poor are borrowed from the English system. And the experience of that country as well as our own, shews that pauperism increases with the augmentation of the funds applied to its relief. This evil has proceeded to such an alarming extent in the city of New-York, that the burdens of heavy taxation which it has imposed, menace a diminution of the population of that city, and a depreciation of its real property. The consequences will be very injurious to the whole state ; for the decay of our great market will be felt in every department of productive labor. Under the present system the fruits of industry are appropriated to the wants of idleness ; a laborious poor man is taxed for the support of an idle beggar ; and the vice of mendicancy, no longer considered degrading, infects a considerable portion of our population in large towns. I am persuaded that the sooner a radical reform takes place, the better. The evil is contagious, and a prompt extirpation can alone prevent its pernicious extension. The inducements to pauperism may be destroyed by rendering it a greater evil to live by charity than by industry ; its mischiefs may be mitigated by diminishing the expenses of our charitable establishments and by adopting a system of coercive labor ; and its causes may be removed by preventing intemperance and extravagance, and by intellectual, moral and religious cultivation. It is the decree of heaven that our lives should be spent in useful or active employment. " In the sweat of thy face shalt thou eat bread, till thou return unto the ground," was the declaration of the Almighty to our first parent ; and a course of blind indiscriminating prodigal benevolence defeats its own object, by attempting to counteract the laws of our nature, and the designs of Providence. Charity is an exalted virtue, but it ought to be founded on reason, and regulated by wisdom. While we must consider as worthy of all praise and patronage religious and moral societies, Sunday, free and charity schools, houses of industry, orphan asylums, saving banks, and all other establishments, which prevent or alleviate the evils of pauperism, by inspiring industry, dispensing employment and inculcating economy : by improving the mind, cultivating the heart, and elevating the character, we are equally bound to discourage those institutions, which furnish the

alimient of mendicity, by removing the incentives to labor, and administering to the blandishments of sensuality.

The Indians in our territory are experiencing the fate of all savage and barbarous tribes in the vicinity of civilized nations, and are constantly deteriorating in character and diminishing in number; and before the expiration of half a century there is a strong probability that they will entirely disappear. Their reservations amount to about 250,000 acres of excellent land, but as the greater part is within the cession to Massachusetts, the state has but little interest in the pre-emption. It is understood that the western Indians are desirous that ours should emigrate to an extensive territory remote from white population, and which will be granted to them gratuitously. As this will preserve them from rapid destruction, as it is in strict unison with the prescriptions of humanity, and will not interfere with the blessings of religious instruction; and as their places will be supplied by industrious and useful settlers, who will augment our population and resources, it is presumed that there can be no reasonable objections to their removal.

This, however, ought to be free and voluntary on their part, and whenever it takes place, it is our duty to see that they receive an ample compensation for their territory. At the present time they are frequently injured and defrauded by intrusions upon their lands, and some of the most valuable domains of the state are subjected to similar detriment. It is very desirable, that our laws should provide adequate remedies in these cases, and that they should be rigorously enforced.

The evils arising from the disordered state of our currency have been aggravated by the banking operations of individuals, and the unauthorised emission of small notes by corporations. They require the immediate and correcting interposition of the legislature. I also submit it to your serious consideration, whether the incorporation of banks in places where they are not required by the exigencies of commerce, trade or manufactures, ought to be countenanced. Such institutions having but few deposits of money, must rely for their profits principally upon the circulation of their notes, and they are therefore tempted to extend it beyond their faculties. These bills are diffused either in the shape of loans, or by appointing confidential agents to exchange them for those of other establishments. But the former mode being conducive to profit, is at first generally adopted, and in the early stages of their operations, discounts are liberally dispensed. This produces an apparent activity of business and the indications of prosperity. But it is all fictitious and deceptive, resembling the hectic heat of consuming disease, not the genial warmth of substantial health. A re-action soon takes place. Their bills are in turn collected by rival institutions, or pass to the banks of the great cities, and payment being required, the only resource left is to call in their debts, and exact partial or total returns of their loans. The continual struggle be-

tween conflicting establishments to collect each others notes, occasions constant apprehension. The sphere of their operations is narrowed. Every new bank contracts the area of their paper circulation; and after subjecting the communities within their respective spheres of operation to the pernicious vicissitudes of loans at one period profusely granted, and at another parsimoniously withheld, they finally settle down into a state of torpid inaction, and become mere conduits of accommodation to a few individuals. The legislature are then solicited to apply a remedy by the incorporation of other banks, whereas every new one of this description, unless attended by peculiar circumstances, paralyzes a portion of capital and augments the general distress.

The banishment of metallic money, the loss of commercial confidence, the exhibition of fictitious capital, the increase of civil prosecutions, the multiplication of crimes, the injurious enhancement of prices, and the dangerous extension of credit, are among the mischiefs which flow from this state of things. And it is worthy of serious inquiry, whether a much greater augmentation of such institutions may not in course of time produce an explosion that will demolish the whole system. The slow and periodical returns of husbandry being incompetent to the exigencies of banking establishments, the agricultural interest is the principal sufferer by these proceedings. And it is with deep regret that I feel constrained to mention that some practitioners of the law, regardless of the high respectability of their profession, have added to the distresses of the country by buying up notes in order to obtain exorbitant premiums and the costs of prosecution. The fall of the manufacturing interest, the excessive consumption of foreign commodities, and the introduction of wide-spreading luxury and wide wasting extravagance, have had a most pernicious effect on the public welfare.

But I felicitate you on the prospect of better times. The blessings of Heaven have visited the labors of the husbandman during the last year, and the products of another season will in all probability create a balance in favor of the country. Public attention is awakened to the encouragement of the useful arts, and to the diffusion of the lights of religion and knowledge; and we are, I hope, returning to those habits of economy and those observances of republican simplicity, which are demanded by the voice of patriotism, and the genius of our government. And when we compare our actual and prospective state with that of other nations we have every reason to be grateful to Divine Providence for the exalted destinies of our country.

I shall now lay before you a letter from the governor of Pennsylvania, respecting the contemplated canal between the Seneca lake and one of the branches of the Susquehannah river; a communication from the secretary of state enclosing a representation of the minister of Great Britain respecting the statute of this state "to amend an act entitled an act relative to the pilots of

the port of New-York ;" a request from the engineer of the United States who superintends the erection of the important works at Rouse's Point on Lake Champlain, for further cessions of soil and jurisdiction ; certain proceedings of the states of Kentucky, New-Jersey and Connecticut, respecting amendments to the national constitution ; and sundry papers relative to the demand of this state against the United States. All these subjects will require your attention in the course of the session, but the last from the circumstances of the case, ought to be immediately considered.

I should do injustice to my feelings, were I not to express my grateful sense of the confidence reposed in me by the people of this state. Conscious that I ought to be judged by my conduct and not by my professions, I shall waive the usual expressions on these occasions, and shall only declare that in the proper performance of my official duties I rely upon the cordial concurrence of the co-ordinate authorities, and the magnanimous support of the people. And I humbly implore the blessing of Almighty God upon the faithful execution of our high responsibilities, and upon our zealous co-operation with the national and state governments, in all wise and patriotic measures to promote the happiness, to advance the honor, and to perpetuate the freedom of the American people.

DE WITT CLINTON.

Albany, January 27, 1818.

On the fifth day of January, one thousand eight hundred and sixteen the Governor delivered the following

SPEECH:

GENTLEMEN OF THE SENATE AND OF THE ASSEMBLY,

A meeting of the representatives of a free people for the purposes of legislation, is, at all times, an event interesting to the community and honorable to the human character: but its importance is greatly enhanced, when they are called upon, by the peculiar state of the country, to deliberate and to decide upon subjects intimately associated with its prosperity and its honor, and with the cardinal interests of all future generations. Under these circumstances you have now assembled, and fortunately at a time the most propitious to patriotic views, to wise deliberations and to energetic decisions. At no period, within my recollection, has the public mind been in a state of greater tranquility, more exempt from the impulses of ambition, and more accessible to the influence of reason and of patriotism.

Our country is in a state of profound peace, which promises a long duration, and even the civilized nations of the eastern hemisphere have sheathed the desolating sword. An enlightened and exalted spirit predominates, friendly to the primary interests of the state; to the promotion of agriculture, commerce, and the arts; to the encouragement of literature and science, of schools, academies, colleges, universities and learned societies; to the advancement of those great internal communications which form the basis of individual and public wealth, and to the elevation of our national character, by works of public and permanent utility, and by acts which consult the welfare and the dignity of the human race. In addition to these distinguished advantages, we have enjoyed the blessings of a healthy season and of an abundant harvest; our seminaries of instruction have increased in usefulness; our population is augmenting beyond all former experience; justice is administered with purity and ability; the majesty of the laws is respected; the influence of religion and morality is spreading: And, after fully estimating those afflictions, which must be experienced by all human beings, and those evils which are incident to all human institutions, it is not too much to say that we never had more reason to be grateful to the Almighty Dispenser of all good. At a period so auspicious, we cannot, therefore, anticipate disappointment from your deliberations. As the faithful representatives of the people, possessing their confidence, you will not hesitate to obey their voice. And in discharging an important duty assigned to me by the constitution, I shall exhibit to you without reserve, but with the most profound respect, my views of the policy which ought to be pursued; of the evils which ought to be corrected, and of the measures which ought to be adopted.

The progress of our internal improvements has equalled our most sanguine expectations. In the course of the next season the Northern canal, extending from Whitehall at the head of Lake Champlain, to Fort Edward, on the Hudson river, a distance of 23 miles, and the whole of the middle section of the Western canal, comprising 94 miles, and reaching from the Seneca river to the Mohawk river at Utica, will be completed and in a navigable state. Thus, in less than two and a half years, canals to the extent of one hundred and seventeen miles will be perfected; and, as the eastern and western sections of the canal from Lake Erie to Hudson river will be about two hundred and sixty miles, it is evident that, by the application of similar means and the exertion of similar powers, the whole of this internal navigation can be finished in six years from the present period, including also the improvements essential on Hudson river, from Fort Edward to the head of sloop navigation. It is satisfactory also to know that, so far as we can judge from the lights of experience, the actual expenses have not exceeded the estimates of the commissioners: And, with all the advantages arising from increased knowledge, from improved skill and from circumspect experience, we are firmly persuaded, that the aggregate expense will fall short of the total estimate. It is also a most gratifying consideration to find, from the progressive and flourishing state of the fund appropriated to this object that the whole undertaking can be completed without providing any auxiliary resources, and without imposing any taxes on the community. From the commencement of the next year, the finished portions of the canals will be in a state productive of considerable revenue.

By the act respecting navigable communications between the great western and northern lakes and the Atlantic ocean, passed the 15th April, 1817, the commissioners are only empowered to make canals between the Mohawk and Seneca rivers, and between Lake Champlain and the Hudson river. Possessing, however, under that act and the act to provide for the improvement of the internal navigation of the state, passed the 17th April, 1816, authority to make the necessary surveys and to lay out the proper routes for the whole of the Western and Northern canals, they have not overlooked the latter, although their attention has been principally devoted to the former object. By that initiatory arrangement, it was obviously the intention of the legislature to bring the calculations of the commissioners to the touchstone of experiment and to determine whether the resources of the state are adequate to the whole operation.

This trial has taken place in the most satisfactory manner, and there cannot exist a doubt of the feasibility of the work or of the ability of the state. It is therefore highly expedient that a law should be passed, during the present session authorising the completion of the whole work as soon as possible. In the course of this year the routes can be then so far definitively settled as to

enable the formation of contracts to take effect in the spring of 1820, by which means a whole year will be saved to the operation, and the state will have the benefit of experienced contractors, who might, under a different state of things, be employed in other undertakings. And, when we contemplate the immense benefits which will be derived from the consequent promotion of agriculture, manufactures and commerce ; from the acquisition of revenue ; from the establishment of character and from the consolidation of the federal union, we must feel ourselves impelled by the most commanding motives, to proceed in our honorable career, by perfecting with all possible expedition this inland navigation.

At the present period a ton of commodities can be conveyed from Buffalo to Albany by land for \$100, and to Montreal, principally by water, for \$25. Hence it is obvious, that the whole of the vast region to the west of that flourishing village, and the greater part of the extensive and fertile country east of it, are prevented from sending their productions to our commercial emporium and that they must either resort to the precarious markets of Canada, or to places more distant, less accessible or less advantageous. When the great Western Canal is finished, the expense of transportation from Buffalo to Albany will not exceed \$10 a ton. Almost the whole of the ascending trade of the west will be derived from the city of New-York, and a great portion of the descending products will accumulate in that important depot. If half a million of tons are, at the present period transported on the waters of the Hudson river, it is reasonable to suppose that the time is not distant, when the commodities conveyed on the canals will be equal in amount. A small transit duty will consequently produce an immense income applicable to the speedy extinguishment of the debt contracted for the canals, and to the prosecution of other important improvements.

In these works, then, we behold the operation of a powerful engine of finance, and of a prolific source of revenue.

It is certainly more important that the productive classes of society should have good markets, out of the state, than that they should be exclusively confined to indifferent or fluctuating markets in it. In the former case, wealth is diffused over the whole country, while in the latter, it is limited to a very few towns. A wise government ought to encourage communications with those places, where the farmer and manufacturer can sell at the highest, and buy at the lowest prices. And, as the acquisition of many markets increases the chances of good ones, and diminishes, in many instances, the expenses of transportation, and guards against the pernicious fluctuations of price, I look forward with pleasure to the speedy arrival of the time when the state will be able to improve the navigation of the Susquehannah, the Allegany, the Genesee and St. Lawrence,—to assist in connecting the waters of the great lakes and of the Mississippi ; to form a junction between the

Western Canal and lake Ontario by the Oswego river, and to promote the laudable intention of Pennsylvania to unite the Seneca lake with the head waters of the Susquehannah.

But there are other and more important considerations connected with this subject which enter into the very essence of our liberty and prosperity. The gloomy and comfortless doctrine, which supposes man incapable of free government, necessarily implies that he must be subject to a bad one, because it pre-supposes his utter incompetence to govern either others or himself. In hereditary or elective monarchies, and indeed in all governments not founded on the broad basis of equal representation, the actual ruler is the prime minister of the day, elected by the prince from time to time to govern the country. Whether this right of choosing be vested in an hereditary elector, or, in an elector for life, appointed by a diet or conclave, or, in an elector chosen by Janissaries, it is clear that it is a faint recognition of the representative principle transferred from the body of the people to an irresponsible individual, totally unfit, from his situation and education, to exercise it with patriotism and intelligence. Who then can doubt the superior excellence of a free government, its entire accordance with the dignity of man, and its almost exclusive devotedness to his happiness? But in the United States our liberty and our union are inseparably connected. A dismemberment of the republic into separate confederacies, would necessarily produce the jealous circumspection and hostile preparation of bordering states; large standing armies would immediately be raised; unceasing and vindictive wars would follow, and a military despotism would reign triumphant on the ruins of civil liberty. A dissolution of the union may therefore be considered the natural death of our free government. And to avert this awful calamity, all local prejudices and geographical distinctions should be discarded, the people should be habituated to frequent intercourse and beneficial inter-communication, and the whole republic ought to be bound together by the golden ties of commerce and the adamant chains of interest. When the Western Canal is finished and a communication is formed between lake Michigan and the Illinois river, or between the Ohio and the waters of lake Erie, the greater part of the United States will form one vast island, susceptible of circumnavigation to the extent of many thousand miles. The most distant parts of the confederacy will then be in a state of approximation, and the distinctions of eastern and western, of southern and northern interests, will be entirely prostrated. To be instrumental in producing so much good, by increasing the stock of human happiness; by establishing the perpetuity of free government, and by extending the empire of knowledge, of refinement and of religion, is an ambition worthy of a free people. The most exalted reputation is that which arises from the dispensation of happiness to our fellow creatures, and that conduct is most acceptable to God which is most benef-

cial to man. Character is as important to states as to individuals, and the glory of a republic founded on the general good, is the common property of all its citizens.

Important, however, as these improvements are, yet they ought not to engross all our attention nor command all our resources. There are other objects of primary consequence which demand the munificence of the government, and I am happy to say that ample means are at our disposal.

The fund appropriated for the benefit of common schools, consists of a million of dollars, invested in bank stock, and in bonds and mortgages, and about 80,000 acres of land. Heretofore, \$60,000 have been annually divided among the common schools, and at the present period \$70,000 may be distributed ; but it is supposed that this cannot be done with propriety, in consequence of the varying and increasing state of our population, until a new census is taken. There is also a considerable fund denominated the literature fund ; and the Regents of the University distributed, during the last year, among several academies, the sum of \$4000, which they will be able to continue.

Without adverting to a million of acres of unappropriated land, some of which is very valuable, and the whole of which is competent to the extinguishment of the public debt, it is sufficient to observe, that the surplus of ordinary revenue beyond the current demands of government for the present year, will be about \$90,000, which will be augmented by the payment of the arrearages of taxes, \$70,000, and also by the payment of the debt due from the United States : so that, without taking into view large sums of money which may come into the treasury from other sources, there will be, in all probability, \$300,000 applicable to objects of public utility.

The legislature having deemed it expedient to apply the avails of certain lotteries to the encouragement of education, and other beneficial purposes, it was not without extreme regret that I have observed the credit of those institutions seriously impaired. As the payment of prizes is guaranteed by the state, and is not limited as to time, it is hoped that the public confidence will be completely restored under the administration of the present managers. In order to promote this desirable end, and to mitigate, as far as possible, the demoralizing effects of lotteries, (which can only be accomplished by rapid drawing) and to guard against fraud and negligence, I have caused certain instructions to be communicated to the managers, a copy of which will be laid before you ; and it will be expedient for you to protect the lotteries against the control of contractors, by means which will be suggested, and which will be efficacious.

Having on a former occasion solicited the attention of the legislature to the encouragement of agriculture, I have to express my regret at the failure of a measure generally admitted to be proper and expedient, on account of a difference of opinion as to its modification. That this important pursuit is the foundation of wealth,

power and prosperity ; that it requires the energies of the mind as well as the labors of the body ; that it demands the light of science to guide its progress, and the munificence of government to accelerate its movements, to extend its usefulness, and to diffuse its blessings, are positions which cannot be controverted.

Why should the countenance of the state be required for the encouragement of the arts and sciences in general, and agriculture, the most important of all arts, the most useful of all sciences, be alone proscribed from the participation of its bounty ?

A spirit favorable to this great improvement is rising and spreading in all directions, and wherever it is experienced it carries in its train extensive and innumerable blessings. The societies already instituted have, by stimulating emulation and diffusing information, effected great good ; and if they be assisted in their useful and honorable career, by pecuniary appropriations, and if a board of agriculture, connected with a course of appropriate studies, be instituted, we have every reason to believe that the most beneficial consequences will result in multiplying the products of the country ; in increasing the value and ameliorating the quality of our commodities ; in preventing the undue augmentation of the learned professions, and in maintaining the equilibrium of society, by restoring the most important interest and the most numerous calling to its merited intellectual rank. The Board of Agriculture ought also to be invested with authority to make a statistical survey of the state, and to obtain periodical returns of births, marriages, and deaths. A knowledge of our resources, of our animal, vegetable, and mineral productions, of the condition of our agriculture, manufactures, and trade, and, generally speaking, complete information of the state of the country with a view to its melioration, would effect great improvements in the practical pursuits of life, and would open new and important views in the science of political philosophy ; a science of all others the most interesting and the least understood. The special designation of a fund for these objects, either by some of the expedients proposed at the last session, or by others which can be easily devised, is required by every consideration of public spirit and public duty.

In connection with this subject it is proper to remark, that the reputation of our flour is at such a low ebb in the foreign markets, that it sells from \$1½ to \$2 less per barrel than that exported from Philadelphia and Baltimore. This cannot be imputed to the inferiority of the seed, to the sterility of the soil, or to its natural inaptitude for such productions. On the contrary there is reason to believe that wheat is one of our indigenous plants, and we are certain that our soil and climate are admirably adapted to its growth. The fault must be with the farmer, the manufacturer, or the inspector. The value of a bushel of wheat for the last ten years has averaged from one and a half to two dollars, and the flour inspected in the port of New-York is about 300,000 barrels a year. The immense loss sustained by the bad state of this staple commodity requires an

efficient remedy. The chamber of commerce of the city of New-York have instituted an inquiry on this subject, and their commendable zeal will, I am persuaded, prove honorable to their institution, and beneficial to their country.

As the prosperity of agriculture is essentially connected with easy and cheap means of transportation, the importance of good communications, by land or by water, cannot escape your attention. All roads leading to navigable rivers and lakes ; to cities, towns and villages ; to manufacturing establishments and depositories of produce and merchandise, are entitled to your countenance ; and in places of a different description, where a thin and commencing population prevents the extensive and useful application of individual exertions, there is every inducement on your part to encourage the growth and settlement of the country, by opening the means of communication. The improvement of old, and the creation of new roads, is at all times an incumbent duty, and a beneficial exercise of power. It cannot have escaped your observation, that in many instances the worst highways are in the most ancient and opulent settlements ; that several turnpikes have injured instead of facilitated intercourse, and that the laws on this subject do not reach the sources of the evil. In our zeal, however, to establish new and good roads, in different sections of the country, let us not transcend the limits of private right and public utility. It is a novel, and to say the least, a questionable exercise of authority, to coerce contributions to the stock of turnpike companies, and it is apprehended that cases have occurred where meritorious settlers and non-resident proprietors have grievously suffered by the exaction of assessments to open communications artfully contrived for the benefit of individuals, without any view to the public accommodation.

The provision for elementary instruction is so liberal that no further pecuniary assistance is required, but your interposition in other respects would be attended with decided advantages. The most durable impressions are derived from the first stages of education. Ignorant and vicious preceptors, and injudicious and ill arranged systems of education, must have a most pernicious influence upon the habits, manners, morals, and minds of our youth, and may vitiate their conduct through life ; and it is a subject no less of regret than astonishment, that, beyond initiatory instruction the education of the female sex has been utterly excluded from the contemplation of our laws. The expediency of instructing teachers in the Lancasterian system, and of promoting its general adoption, has hitherto been intimated to the legislature.

When it is considered that education is the guardian of liberty and bulwark of morality, and that knowledge and virtue are, generally speaking, inseparable companions, and are in the moral, what light and heat are in the natural world—the illuminating and vivifying principles ; I trust, that I need no apology in soliciting an extension of your patronage to the higher seminaries of education.

In the year 1814, a grant of \$200,000 was made to Union College; of \$40,000 to Hamilton College, and of the Botanic Garden on the Island of New-York to Columbia College, on condition that the establishment be removed to that place within twelve years from the time of the donation. It was undoubtedly intended that the grant to Columbia College should be substantial and beneficial, but it was fettered with a condition under the mistaken impression that a removal of the institution would be expedient. The operation of this change of place would be the conversion of a city, into a country college, and a consequent exclusion of the youth of the city of New-York from its benefits, unless they incurred great and unnecessary expense. And as many persons prefer the education of their children in cities, it is unquestionably best that Columbia College should continue in its present position, in order that all young men of the state may be accommodated according to the views of their parents. A compliance with the condition of the grant ought therefore not to be expected; and it is hoped that the legislature will look with a benign eye upon that ancient and most excellent seminary, and consent to extend its blessings by the substitution of an equivalent donation.

Nor ought the interests of the other colleges to be overlooked. The character of Union College cannot be increased by any eulogium from this place. And the infant establishment of Hamilton, rising into usefulness and reputation with rapid strides, under the guidance of distinguished men, not only requires but deserves the bounty of the state. Having during the last year recommended to your patronage the Colleges of Physicians and Surgeons, and the societies devoted to literature, science, and the arts, I have only to say that these institutions continue to merit by their indefatigable activity, well directed industry, and distinguished knowledge, the high character then ascribed to them, and that, in every respect, they are entitled to the public munificence.

Among the numerous and interesting objects which have experienced the benevolence of individuals and the countenance of the government, it is pleasing to observe that the interests of the dumb and the insane have not been overlooked; two unfortunate descriptions of our fellow creatures shut out from the blessings of social communion, and entitled to our deepest sympathy.

The liberal grant of \$10,000 a year to the governors of the New-York Hospital, has enabled them to erect a most spacious and accommodating asylum for lunatics, about seven miles from the city, and on the Island of New-York; and the application of this fund has been so judiciously directed by its benevolent administrators, that the contemplated edifices and accommodations will be completed during the next season, and without the existence of any debt after the expiration of fifteen years.

In April, 1817, the New-York Institution for the instruction of the deaf and dumb was incorporated, and it now contains thirty-two persons in a state of rapid improvement, communicating ideas by

signs and vocal sounds, and favored with able and excellent teachers, who by a combination of the French and English systems of tuition, conceived with singular ingenuity and executed with admirable felicity, have deserved well of the friends of humanity. I cherish the fullest confidence that you will take this interesting establishment under your special protection, and that your munificence will only be exceeded by its merits. A liberal portion of the school fund applicable to the city of New-York is one of the many means by which its exigencies may be supplied.

In attending to the general interests of the community, let us not overlook the concerns of two unfortunate races of men, who will be forever insulated from the great body of the people, by uncontrollable circumstances, and who ought to receive our protection and benevolence. I refer to the Indian and African population.

The erratic and migratory spirit, which marks the character of all savage nations, has been cherished in our Indians, by persons either interested in removing them from their territory, or who feel an anxiety to protect them from the contaminating and interrupting contiguity of a white population. On the other hand, this propensity has been counteracted by individuals who either derive emolument from their continuance, or, who, governed by the purest benevolence, are anxious to bring them within the pale of civilization and christianity. This collision has produced a state of continual uneasiness and agitation among this unfortunate people. As experience has almost uniformly demonstrated that their diminution in number, and recession from virtue, have been in proportion to their propinquity to a civilized people, I have never ceased to believe that their departure is essential to their preservation: But in my communications with them, I have thought it proper, until the sense of the legislature is expressed, to abstain from urging this measure, leaving it to their own volition, without pressing upon them the influence of the government, and assuring them that, in any alternative, they shall experience the favor and protection of the state, and its best exertions for their happiness.

In pursuance of a law of last session, I authorised measures to be taken for the erection of a church in the Oneida territory which were gratuitously executed by two distinguished gentlemen of Oneida county. The first christian party of Indians agreed to increase the sum of four thousand dollars heretofore appropriated by the second christian party, by adding a thousand dollars from their annuity: And both sections having also united in designating the site of the edifice, it is to be hoped, that the feuds which have heretofore separated them, will be extinguished by the influence and benign spirit of christianity.

During the continuance of this people among us, it will undoubtedly be our duty to protect them against frauds and wrongs, and to make such arrangements as may best promote their welfare.

their partial sales which frequently take place, of their territory, it might be useful to reserve certain portions for advancing their improvement in the arts of civilized life ; and it may essentially accommodate them, if, in cases of emergency, particularly of scarcity, the treasury were authorised to pay their annuities in advance. It is the opinion of many pious and benevolent men, who have directed their attention to this subject, that the condition of the Indians might be immeasurably ameliorated, by the establishment of a board of commissioners, selected from the different religious societies, who have manifested an interest for their welfare, and with authority to take into consideration, all matters relating to the Indians in this state ; to investigate their situation and wants ; to redress their grievances ; to diffuse among them education, agriculture, morality and religion, and to recommend to the legislature the adoption of such measures as shall be most conducive to the attainment of these desirable objects.

Our code, in relation to the African population, has been arranged with a two-fold view ; as a requirement of humanity to prevent the separation of near relations, and their being conveyed in a state of slavery to distant lands, by prohibiting the exportation of slaves and servants : And, as a dictate of policy to preclude the increase of an unwelcome population, by interdicting their importation. A steady adherence to this system will, in course of time, have the intended effect : And it may be proper to fortify the existing provisions, on account of the artful evasions which are practised to procure the exportation of servants. The strong propensity of this race to congregate in our great towns, where they are peculiarly exposed to the contagion of bad example, and the degraded light in which they are contemplated by public opinion, must not lead us to expect from them many exhibitions of extraordinary virtues or talents. It is due, however, to justice, to say, that the establishment of schools and churches, for their benefit, under the auspices of benevolent men, have had a benign influence in the improvement of their minds and their morals ; and it is believed that the benevolence of the state will never be withheld from the encouragement of such laudable undertakings.

Although the militia code enacted at the last session is, in some instances liable to objections, and requires your correcting interposition ; yet on the whole, it has been productive of salutary effects. In order to accommodate, as far as practicable, our arrangement to the most approved system, I constituted two brigades into a division, and distributed the whole militia into twenty-five divisions, independently of those of artillery and cavalry. The generals of division, who were in many cases before mere nominal officers, on account of the extended sphere of their commands, are now enabled, without essential sacrifices, to direct their attention to their duties, and, by the exertion of their experience and skill, to promote the knowledge of the military art. A disposition to improve in tactics and discipline has generally man-

itself during the last year, in a manner and to an extent reflects honor on the militia. Fully persuaded, that you appreciate this bulwark of national safety, and this palladium of the states, I consider it unnecessary to press the importance of encouragement. If the physical force of the state were properly instructed in the military art, it would form an impregnable defence of the country : and, I do not despair to see the accomplishment of this desirable object, by the establishment of military schools, and by the extension of beneficial immunities. An exemption from personal taxation, either wholly, or to a limited extent, in favor of those portions of militia, who uniform themselves in fabrics of American manufacture, would, I am persuaded, induce the whole body to array themselves in a military dress ; and by these means, that most useful class of the community employed in manufactures would be materially benefitted. On the subject of the medical staff of the militia, I shall direct to be laid before you a luminous report from the distinguished gentleman who resides over that department.

The embarrassments arising from the disordered state of our currency have increased, instead of diminishing, since I had the honor to address the legislature on the subject. The vast excess of paper above metallic money, at least treble in amount—and the great demand for the latter have produced a state of alarm and distress, and have created great distress, not only in the mercantile world, but in all the departments of productive industry : and unless efficient preventives are adopted and suitable remedies applied, the evil will be in a state of progressive augmentation. The supplies of the precious metals have decreased, in consequence of the agitations in South America, and our metallic money is consequently diminishing by its conversion into articles of luxury and dissipation, and by vast exportations to Asia. On the other hand, paper money is augmenting, by the improvident conduct of governments, in the creation of banking institutions ; for every bank will increase the quantity of paper money by a forced emission of its notes. A proposition to invest banks with the authority of coining money would have no advocates, and yet it might be as pernicious as the authority already granted of emitting paper notes : for, in the former case, the money would have no value, and its emissions would be limited by the ability of the banks to procure the precious metals ; and in the other, its quantity would depend upon the mode in which these institutions are established and administered, and the extent of their issues would be their ability to obtain the engraving materials. To arrest the progress of evils so alarming will require the cordial and patriotic co-operation of the people and their governments. If we turn to the observance of that economy and simplicity moving the dignity of freemen, we may confidently calculate upon being rescued from this unenviable situation. Having much to say of the multiplication of banks, I now only express my opinion

formed a many years after mature deliberation, and which are every day sanctioned by the progress of time and the value of experience.

The state of our penitentiaries requires your serious consideration, and must excite your sincere regret. As the only legitimate object of punishment is to prevent crime, by reforming the offender, by incapacitating him from perpetrating future mischief, or by deterring others by the admonition, and as none of these consequences have resulted, the failure must be imputed to the system, its defective arrangement, or improper administration. As it has succeeded in other places, and is strongly recommended by the voice of reason, as well as humanity, the fault must be ascribed to other causes than to the system itself. In order to reform an offender, he must be placed beyond the influence of bad advice and example; his mind and his passions must be disciplined by intellectual, moral and religious instruction; and he must be subjected to privations, to labor and solitude: and in order that his punishment may have effect on the conduct of others, it is equally necessary that it should be certain, and that its realities should be unquestionable. On the present plan, there is no classification of age or crime. Each apartment is calculated for about eighteen persons. All descriptions of convicts are crowded together without distinction—the young and the old—the healthy and the unhealthy—the novice and the adept in crime: and here the hardened offender boasts of his vices, unfolds his expedients, and completely eradicates every remaining impression of rectitude. Such is the perversity of human nature, that a man, destitute of virtue, will be vain of his vices, and as a spirit of proselytism prevails among the wicked as well as the good, our penitentiaries become schools of turpitude, in which profligacy is inculcated in its most odious forms and in all its terrible enormities.

Offenders having thus the amusements of society, being exempt from grievous privations and severe labor, and entertaining a persuasion that the increasing influx into the prison must soon release them from confinement, view their punishment without terror, and return into society with corrupt principles, with depraved feelings, and with every disposition to renew their crimes. Hence we sometimes see offenders imprisoned on a third conviction; and frequently, the day of their release by pardon, or expiration of sentence, witnesses their apprehension for new offences.

In consequence of the crowded state of the prisons the executive is reduced to this dilemma, either to exercise the pardoning power to a pernicious extent, or to witness the destruction of the whole penitentiary system. He is also frequently deceived by misrepresentation; and pardons are sometimes granted to the worst on the recommendation of the best men in the community, who, in listening to their sympathy, lose sight of their patriotism, and who submit themselves to the influence of a sickly and fastidious humanity, which confines its view to the offender, and does

not perceive in his punishment, the establishment of general security.

Another effect is inevitable. Instead of rendering labour productive, and maintaining the establishment without expense to the state, appropriations for its support are annually called for, and are in a state of constant accumulation.

In November last there were in the state prison at New-York about 603 convicts, of whom 410 were convicted of grand larceny, and 30 for offences relating to the counterfeiting and uttering bank notes.

There were, at that time, in the State Prison at Auburn, about 131 convicts, of whom 50 were confined for grand larceny, and 38 for counterfeiting and passing bank notes.

The total number in both prisons was 734, and the offenders guilty of grand larceny, and counterfeiting and uttering bank notes, were 582, leaving only 152 convicted of other crimes.

As one main source of the evil is the inordinate number of prisoners, an efficacious remedy might be administered, by reducing the number of those confined for grand larceny, and offences against banks.

If solitary cells for the punishment of offenders below the degree of grand larceny were established in the counties ; and if stealing, below the value of fifty dollars, was considered petit larceny only, it is believed that our penitentiaries would be relieved from the great crowd which destroys their usefulness.

A law was passed in Lower Canada, in 1811, providing against counterfeiting the bank paper of other countries, and against making the materials for that purpose, which renders the offenders liable to punishment, by imprisonment, whipping and the pillory. Notwithstanding that statute, and the good disposition of that government to suppress the crime, it is certain that the counterfeiting of our bank paper is principally carried on in a remote part of that country, at a distance from the coercion of the magistracy.

Offenders of this description may be classed as follows :—

- 1st. The engravers of plates, makers of paper, and signers of notes, who generally reside out of our jurisdiction.
- 2d. Messengers, who are constantly passing from various parts of the country to the seat of counterfeiting, to obtain spurious money and convey it to places of deposit.
- 3d. Those who keep places of deposit, generally in the vicinity of large towns, and who deliver the bad notes to others to pass.
- 4th. Utterers of counterfeit money.

As these crimes are of different enormity, they ought to be subject to correspondent punishments. And if the counterfeiters, and proprietors of the depositories were treated with the utmost severity, it is believed that these offences would be much diminished.

I shall cause the statute of Lower Canada to be laid before you ; and if a similar act were passed in this state, it might facilitate such arrangements between the two governments as would effectually crush the evil in its incipient stages.

It is essential that our prisons should be so constructed as to subject convicts to complete and constant inspection. Each offender should have a separate dormitory. And as in the day time, the prisoners would be employed in labor and under the eye of the keepers prevented from speaking to each other, and be in the night time in a state of insulation, punishment would be appalling, and cleanliness, order, and regularity would predominate ; and, as no conspiracies could be formed, no riots or insurrections would occur, and no military guard would be required. A multiplicity of pardons would be rendered unnecessary by the improved condition of the prisons ; and the prerogative of mercy might be restrained within salutary limits, by rendering it the duty of the district attorneys to transmit, after the adjournment of every criminal court, a detailed statement of the case of every convict to the executive, for his information.

In the course of the last year a serious insurrection took place in the state prison at New-York, and at various times a refractory spirit has been manifested, injurious to discipline, destructive of the public property, and subversive of the very ends of the establishment. This dangerous spirit ought to be crushed, by the infliction of exemplary punishment ; and the inspectors ought to be expressly armed with power to compel obedience, in defiance of all consequences. In considering these subjects, there are several minor arrangements which may be suggested as proper. In case no contract can be made for the supply of the state prison, or, in case of disadvantageous offers, a discretionary power for obtaining supplies ought to be vested in the inspectors. No authority has been given for disciplining the militia guard attached to the state prison in New-York. The inspectors of the two penitentiaries hold their offices under distinct authorities, and it is difficult to discover any good reason for the discrepancy. When revising and perfecting this code, it would be advisable to combine it in one statute.

There is no question but that if the laudable efforts of the societies instituted in various parts of the country for the suppression of vice, and the promotion of morality, were enforced by additional and powerful sanctions, many of the crimes which fill our prisons with unhappy offenders, would not be perpetrated. In the resorts of gambling, drunkenness, and prostitution, we must look for the sources of those crimes, which poison the peace of families and violate the good order of society.

The statutes passed at the last session, for limiting the number of magistrates, extending the jurisdiction of the inferior courts, and restraining abuses in the practice of the law, have been attended with salutary effects. And other important subjects will undoubtedly present themselves in the course of your deliberations, which may require your attention. Permit me to mention at this time, the propriety of placing the jurisdiction of the sessions in the counties on the same footing as that of the

New-York ; and also, of altering the law on the subject of executors and administrators, by giving them time to arrange their trusts before the institution of suits ; by abrogating preferences, in the payment of debts ; and by facilitating the proving and recording of wills, and the sales of real estates.

After assuring you of my cordial co-operation in all your measures, for the public good, I shall only detain you from your important duties, by informing you of my proceedings in the execution of certain statutes, passed at the last session. I appointed a commissioner to examine the outlet of Buffalo creek, and to report on the site, plan, and expense of a commodious harbor for that important place. I have also made a similar arrangement in relation to Little Sodus Bay and Great Sodus Bay, on Lake Ontario. Commissioners have been associated with the Attorney General, to perform the duties assigned by the act relative to the claims on certain lands in the county of Putnam. And also, with the Surveyor General, to lay out the village of St. Regis, and to execute the other requirements of the act relating to the lands belonging to the people of this state in the St. Regis reservation.

An agent has been appointed under the act relative to the demands of this state against the United States, and he has been vigilantly and actively engaged in the performance of his trust, which is now in a fair train of completion. The duties confided to me by the act entitled "an act of honor to the memory of General Richard Montgomery," were executed under a full conviction that every great example of heroic virtue ought to be cherished as an important acquisition to the honor and dignity of the human race.

DE WITT CLINTON.

Albany. January 5, 1819.

On the fourth day of January, one thousand eight hundred and twenty, the Governor delivered the following

SPEECH :

GENTLEMEN OF THE SENATE AND OF THE ASSEMBLY,

SINCE the last session of the legislature, the distresses of the community have continued to increase ; and in consequence of the general uneasiness excited by this unpropitious state of things, meetings have been held in various places to solicit your interposition. Immediately on the termination of the late war, a fatal blow was given to the manufacturing interests by the importation of vast quantities of foreign fabrics, neither required by our wants nor our comforts. In all sections of the country, and in all descriptions of society, the progress of extravagance and luxury has been alarming. In individuals, expenditure has exceeded income ; and in our collective capacity, as a nation, the aggregate value of our exported productions has been greatly inferior to the cost of foreign commodities. The demands of foreign markets for the products of agriculture have been diminished by a state of general peace ; and the pernicious multiplication of banking institutions, and the inordinate diffusion of a paper currency, have produced the most serious calamities. In cases of this description, government may alleviate, but can never remove the evils. The conservative power over the general good is at all times vested in the great body of the people : and in the present crisis, it consists most emphatically in the retrenchment of our expenses ; and in the augmentation of our industry. The sources of the prosperity of nations, as well as of the happiness of individuals, must be formed and cherished at home. The season of suffering cannot, however, be of long duration. A vast capital, now unproductive and unemployed, will soon be applied to animate the efforts of useful industry : and the renovating power, and enterprising spirit of our country, must predominate over the obstacles which have conspired to check its prosperity. Whatever measures you may adopt, will, I am confident, be marked by a sacred regard for private right and public utility. And I would suggest to you whether a portion of our funds might not be usefully employed in loans for the purpose of alleviating the pressure on the community.

The favorable condition of the treasury and the high credit of the state are equally a subject of congratulation. With the continuance of our present system of finance, we will, I am persuaded, be enabled to defray the expenses of government, to evince the usual munificence of the state, and to prosecute our internal improvements without any resort to new burdens, and with a reduced rate of interest.

The law which was passed at the last session for the encouragement of agriculture, has fully realized the patriotic views of the

legislature. The institution of a board to superintend that important pursuit, with authority to receive and communicate useful information, and to dispense the means of valuable improvement, will always be considered an important era in our history : and the encouragement of local institutions, by the appropriation of a premium-fund for the best and most abundant products, has already excited an unrivalled spirit of emulation and exertion. Twenty-seven counties have drawn from the treasury the monies allotted for that purpose, and forty-one have established agricultural associations. The universal interest which this subject has created, and the extraordinary benefits which it has dispensed, may be seen in the exhibitions and competitions for premiums ; in the combinations of practical and scientific men ; in the luminous discourses of the presiding officers ; in the vast collections of citizens, at the places assigned for meeting ; in the improved quality and increased quantity of our commodities ; and particularly in such unprecedented and abundant products, as to induce a belief that, in some instances, agriculture has nearly attained its utmost perfection, by raising the greatest possible quantity of produce at the least possible expense. The excellence of this system may, however, be greatly improved by extending the duration, augmenting the fund, and enlarging the power of the superintending board. A statistical survey, describing the actual condition, and developing the possible improvement of the state, may be easily effected through this institution : and I know of no measure better calculated to promote our cardinal interests ; to encourage our agriculture, manufactures, and trade ; to illustrate our resources ; to advance natural science and political philosophy ; and to elevate the character of our country.

Experience has evinced the precarious and fluctuating nature of foreign markets for the disposal of our products. Even in the most prosperous times of our commerce, and in seasons of the greatest foreign demand, there was at least twice as much grain consumed in this state alone as was exported from all the United States. The principal surplus of agricultural productions, not required for the use of the agricultural interest, must be either consumed at home or lost to the cultivator. Foreign commerce may co-operate in creating flourishing Atlantic cities ; but internal trade must erect our towns on the lakes and rivers, and our inland villages ; and internal trade must derive its principal aliment from the products of our agriculture and manufactures. As the protection of the foreign and of the carrying trade, two of the great branches of commerce, is exclusively entrusted to the national government, the state authorities cannot extend their power beyond the encouragement of the home trade, by cherishing the agricultural and manufacturing interests, and promoting the channels of communication ; and the co-operation of the general administration, for the attainment of these invaluable ends, is, to a certain extent, all-important.

The reciprocal dependence of the great departments of productive industry, is a wise dispensation of Providence to exten-

sphere of human usefulness, to animate and multiply the motives for activity, and to cement the fabric of human society, The successful progress of the important channels of communication now opening in the state will have a benign influence. not only in producing facility and cheapness of transportation for the proceeds of labour, but also in creating markets for their consumption. Already do we perceive the establishment of villages on the borders of the great canal ; and the raw materials of the husbandman, obtained with comparative ease and cheapness by the manufacturer, will be converted into articles of accommodation and comfort. This, in time, will establish on a solid foundation, an important interest, which will use the fruits of agriculture, as well in the fabrication of commodities, as in the sustenance of human life. And thus, by the reciprocal action of benign influences, the great departments of productive labor, will harmoniously co-operate in creating individual and national opulence. The carriers, buyers, and venders of our commodities, will constitute an important class in the interior ; and the great accessions to the other professions and pursuits, and the general augmentation of our population in consequence of our growing prosperity, will enable us to carry on a vast system of internal trade, which will in a great measure supersede the necessity of foreign markets.

The middle section of the Western Canal, including a lateral canal to Salina, and comprising a distance of near 96 miles, has been completed. On the 23d day of October last, the commissioners navigated it from Utica to Rome, and found their most sanguine expectations realized in the celerity, economy, and excellence of the execution ; and on the 25th of November the Champlain Canal was also in a navigable state. In less than two years and five months 120 miles of artificial navigation have been finished : and thus the physical as well as financial practicability of uniting the waters of the western and northern lakes with the Atlantic ocean, has been established beyond the reach of doubt or cavil. The efforts of direct hostility to the system of internal improvements, will in future be feeble. Honest and well disposed men who have hitherto entertained doubts, have yielded them to the unparalleled success of this measure. But as there is great reason to apprehend the exertions of insidious enmity, I consider it my solemn duty to warn you against them. As the canal proceeds to the west, the country east will of course be accommodated, and in proportion to its progress to completion, in that ratio will it be considered more easy to combine a greater mass of population against its further extension. Attempts have already been made to arrest its progress west of the Seneca river, and it is highly probable that they will be renewed when the work is finished to the Genesee. As the benefits of artificial or improved navigation are rendered more obvious by experience, efforts will be made to obtain appropriations for great local accommodations, and while good men will endeavor to acquire them with honest views and for patriotic pur-

poses, they will receive the countenance of persons of a different description, who in furtherance of selfish designs will strive to destroy the great fabric of internal improvements, by withdrawing or dispersing the fund appropriated for its support.

Under a full persuasion that the honor and prosperity of the state imperiously demand the completion of the whole of this great work, and that if we are just to ourselves and to posterity, it will be effected in five years, I am happy to assure you that the decided and prudent measures of the canal commissioners in October last, are in full accordance with these impressions. At that meeting they directed that portion of the western section, which extends from the Seneca river to Rochester on the Genesee river, and that portion of the eastern section which commences at the eastern termination of the middle section, and reaches to the east side of the Little Falls, to be marked out as parts of the Great Western Canal, and to be contracted for, as such : and considerable progress has been already made in these important operations.

The whole length of the western section is about one hundred and sixty-three miles, and of the eastern about ninety-seven : and notwithstanding the disparity of the distance, it is estimated that the expense of each will be about the same, making in the aggregate, four millions of dollars. The object and tendency of that measure of the canal commissioners must be obvious ; and policy, as well as justice, concurred in recommending its adoption. By operating in both directions, a solemn pledge is given of our determination to finish the canal ; sectional jealousies are allayed ; the advantages arising from pecuniary expenditures are impartially dispensed ; and every advance of the work, in either way, will facilitate communication. The completion of the middle section has already opened markets for a fertile and extensive region. The expense of conveying a barrel of flour by land to Albany, from the country about the Cayuga lake, was more than twice as much as the exportation of one from New-York to Liverpool ; and the difference between the former and the present cost of conveyance will not only remunerate the manufacturer, but afford an increased compensation to the agriculturist, independently of the rise of the commodity in value, from its being furnished with a good market. It is believed that our Atlantic country will soon be supplied with salt from the west, cheaper than from abroad, and the revenue from the salt-works, appropriated to the construction of the canal, already exceeds the most favorable estimates, and shews conclusively the importance of this communication to the accommodation of a vast country. In the progress of the canal, gypsum of the best quality has been discovered ; and it is ascertained that this region contains a sufficient quantity of this invaluable mineral for the supply of the whole United States. Heretofore, the principal ingredients of hydraulic mortar were procured at a great expense from abroad for the construction of locks ; but a species of lime-stone has been found, dispersed over the whole country, admirably adapt-

ed for water cement, and entirely superseding the necessity of a foreign supply. Stone, for the construction of locks, culverts, bridges and aqueducts, is also found in abundance : and it is confidently believed, as well from the geological character of the region as from various other indications, that coal will be discovered amply sufficient for domestic uses, and manufacturing establishments. The animation which this work, in its present unfinished state, has given to our internal trade, cannot be duly appreciated without the advantages of personal observation, nor can all its blessings be realized or displayed, until years of experience have passed away.

It is a subject of high felicitation to observe the energies of our sister states directed in a similar way to the promotion of the general prosperity. The Carolinas and Virginia have adopted wise and vigorous measures for the advancement of inland communication ; and some of the western states have been equally decided and public spirited. An union of the waters of the Illinois river and lake Michigan, and a connexion between lake Erie and the Ohio in the direction of the Sandusky and Scioto rivers, are seriously contemplated. While measures so honorable to our sister states must always command our best wishes, and secure our highest approbation, let us be deeply impressed with the importance of attending to improvements of a similar character. Communications between the waters of lake Ontario and the western canal ; between the river St. Lawrence and lake Champlain ; and between the Susquehanna river and the Seneca lake, will accommodate important and respectable portions of our population, deserving, as well from their enterprising industry as public spirited character, every attention from the government. The improvements of the Oswego river ; the establishment of a harbour at Buffalo ; and the draining of the Cayuga marshes have received that consideration which was due to subjects so worthy of the favorable attention of the canal commissioners ; and the results of their measures will be communicated as soon as possible.

The board of commissioners, constituted by act of last session, to report a plan for improving the navigation of the Hudson river, have attended to the important business assigned to them. The low state of the waters was favorable to their operations, and evinces, beyond a doubt, the necessity of your benign interposition, (which indeed cannot be too earnestly inculcated,) as you will perceive from the proceedings of this board, which will be presented to you.

By the act respecting navigable communications between the great western and northern lakes and the Atlantic ocean, passed the 16th April 1817, a tax of \$250,000 is directed to be imposed upon the lands lying within twenty-five miles on each side of the canal, from the Mohawk to the Seneca river, and from lake Champlain to the Hudson. And by the act concerning the great western and northern canals, passed on the 7th of April last, this assessment is suspended until further order of the legislature. In operations of

this nature, it must necessarily follow, that particular portions of territory will receive extraordinary benefits. But with the augmentation of their wealth, their ability to contribute to the public burthens will be proportionally enhanced, and consequently the taxes in other places will be correspondently diminished. And it is submitted to you whether it comports with the magnanimity of government to resort to partial and local impositions, in order to defray the expenses of a magnificent work, identified with the general prosperity.

The improvement of natural and the prosecution of artificial navigation ought not, however, to divert your attention from the establishment of roads and bridges, so much demanded by the wants of new settlements, the convenience of all descriptions of people, and the primary interests of society. Every judicious improvement of this nature increases the value of land, enhances the price of commodities, and augments the public wealth. In the varying state of things in new countries, which must necessarily arise from the flow of population, the extension of settlements, and the fluctuation of capital, the application of different measures, at different times, may be requisite. A good government will always consider with peculiar benevolence the hardships and sufferings of the first settlers of a country; and its disposition to dispense relief will only be limited by the great landmarks of justice and public policy.

In order, however, to accomplish important improvements; to advance the great interests of productive industry; to establish the means of conveyance by land as well as by water; to disseminate literature and science; to patronize schools, academies, colleges, and learned institutions; to promote the views of benevolence in the administration of healing to the sick, of comfort to the poor, and of instruction to the ignorant, it is necessary that a system of economy should be adopted and applied to all the measures of government and all the channels of expenditure. Good examples ought to emanate from those whom the people have honored with their confidence and invested with their authority. Considering the reduced prices of all the necessities and comforts of life, and the pecuniary distresses of the times, I think that the period has now emphatically arrived, when no objection ought to be made against a reduction of the compensation of the officers of government and the members of the legislature. The application of economy ought to be general and impartial; and it is respectfully submitted to you, whether it be not advisable to shorten your sessions, as the expense of the legislative department exceeds that of the executive and the judicial combined. And as almost all important statutes are passed at the close of your meetings, the short interval between that period and the ensuing election, renders it impossible for your constituents to obtain accurate information of the character of the laws and the conduct of their representatives, before they are called upon to pronounce an opinion by

their suffrages. Under these impressions it is suggested whether it would not be expedient to contract the duration of your session at least one half, and in furtherance of this important object, whether it would not be advisable to omit the answer to the speech of the governor. He is required by the constitution to "inform the legislature at every session" of the condition of the state so far as may respect his department, and to recommend such matters to their consideration as shall appear to him to concern its good government, welfare and prosperity; and custom has prescribed a personal instead of a written communication, perhaps as being most respectful to the representatives of the people. But answers are not demanded by the constitution, nor by expediency, and besides prolonging the session, and frequently interrupting its harmony, they exhibit formality and pageantry not altogether well adapted to the simplicity of our republican institutions.

With a view to illustrate the influence of our improvements in the administration of our civil and criminal justice, I have caused certain inquiries to be addressed to the clerks of counties and the district attorneys: and their answers which will be laid before you, contain some suggestions of an interesting character on the subject of our civil and criminal jurisprudence, and demonstrate the wisdom of the measures which have been adopted. It is certain that prosecutions even in justice's courts with enlarged jurisdictions have greatly diminished, and that the extortions and oppressions of a few who derived their support from the tears of misfortune and the calamities of indigence, have been almost entirely suppressed. And I think it, on this occasion, due to justice to state, that the provisions in these cases have received the decided approbation of the most respectable members of the legal profession.

In soliciting your attention to the recommendations heretofore submitted to you with respect to the amelioration of our penitentiary system, as well in its organization as its administration, I cannot but express my gratification at the arrangements for solitary cells, and separate dormitories in the state prison at Auburn. Great improvements must be elicited by the lights of experience; and we have the satisfaction of knowing that our mild system, with all its imperfections, is better adapted to promote the ends of criminal justice than the sanguinary code which formerly disgraced our country. In no country in the world are there fewer robberies, arsons and murders, than in this; and our observation has shown, that while it is impossible to extirpate crimes, it is possible to diminish their number and to mitigate their ferocity. In addition to my former suggestions, permit me to recommend, as highly important, a moral classification of criminals with distinctive appellations and accommodations, according to their grades of guilt. And if the pardoning power be confined to the best of the proposed divisions, a powerful appeal will be made to the hopes and fears, the enjoyments and privations of the prisoners, and a continual incentive to reformation will be in full operation.

As our present criminal code does not sufficiently provide against the consequences which may result from carrying secret arms and weapons, whereby human life may be endangered, or destroyed in sudden affrays, or in premeditated injuries, I would suggest this subject to your consideration with a full persuasion that it is a delicate one, and that unless it is judiciously treated an essential right of every free citizen may be impaired or invaded.

The bank for savings in the city of New-York, instituted at the last session, to cherish meritorious industry, to encourage frugality and retrenchment, and to promote the welfare of families, the cause of morality, and the good order of society, has already manifested its claims to your confidence by an accumulation of more than one hundred and fifty thousand dollars in small deposits, and by shedding a benign influence on society. The application of this institution to authorize loans on real estate, as well as any other provisions subservient to its salutary objects, will undoubtedly receive your sanction.

Having had an opportunity to judge in a number of cases from personal observation of the condition of the militia, it has afforded me great satisfaction to witness their rapid improvement. There are several provisions which might be usefully adopted, and there are some defects with respect to the imposition and collection of fines and the dissolution of artillery companies, which require your notice. But as the consideration of all subjects relating to our physical force will necessarily be submitted to committees, a more detailed view can be presented to them, by the appropriate departments. At some turnpike gates, toll is demanded from the militia when repairing to their places of rendezvous. As this is a departure from a general rule, and an unnecessary increase of their burdens, I submit it to your consideration whether the evil ought not to be removed.

The pestilence which threatened the health of the metropolis, and which had commenced the work of destruction, was arrested under the blessing of Almighty God, by the prudent and energetic measures of the board of health. A difference of opinion exists, and much controversy has taken place with respect to the origin and nature of this disease. Without any reference to the merits of discordant theories, it is sufficient to observe that all unite in recommending the utmost attention to the purification of our cities. For whether the disease emanate from abroad or originate at home, it is universally admitted that it is aggravated and extended by the want of cleanliness. The establishment of public baths and common sewers will have a most salutary influence. A populous city like New-York, can never furnish, within its own limits, the sources of pure and wholesome water. Aqueducts conveying water from a distance have been used in all cities where the public health and the general comfort have been duly consulted. At different times the river Bronx and the Saw-mill creek in the county of Westchester have been explored and examined in reference to the

accommodation of the city of New-York, and there is little doubt that both if not either of those streams, will be amply sufficient. Whatever measures you may devise or whatever assistance you can render to promote the health or comfort of that important portion of our population, will, I am confident, be cheerfully performed.

I present to you my cordial congratulations on the flourishing condition of our schools of education and seminaries of learning. From the primary institutions where instruction is initiated, to the colleges where it is consummated, the propitious influence of knowledge is observable. Much indeed has been done to promote the interests of education, but in such a cause liberality can rarely degenerate into profusion. The stability and duration of republican governments depend upon the ascendancy of knowledge and virtue. The mind duly enlightened, and the heart properly cultivated, can never submit to the dominion of anarchy or despotism.

While on this important subject of instruction, I cannot omit to call your attention to the academy for female education, which was incorporated last session at Waterford, and which, under the superintendence of distinguished teachers, has already attained great usefulness and prosperity. As this is the only attempt ever made in this country to promote the education of the female sex by the patronage of government ; as our first and our best impressions are derived from maternal affection ; and as the elevation of the female character is inseparably connected with happiness at home and respectability abroad, I trust that you will not be deterred by commonplace ridicule, from extending your munificence to this meritorious institution.

The constitution of this state was formed nearly forty-three years ago. And considering the circumstances under which it was established, in the midst of war and commotion, and without the benefits of much experience in representative government, it is not a little surprising that it is so free from imperfection. Attempts have been made at various times to call conventions to introduce alterations, which have only succeeded in a single instance, probably from an apprehension that an innovating spirit might predominate, and destroy, instead of consolidating this temple of freedom and safety. Parties are the natural offspring of republican government. Wherever freedom exists, it will be manifested in differences of opinion with respect to the best mode of promoting the public welfare. And when these contentions spread over society, they form parties ; and mingling sometimes with private views and local interests, degenerate into faction, which seeks its gratification in violation of morality, and at the expense of the general good. And such is the proneness of human nature to cherish the spirit of contention, that we often see the continuance of parties after the cessation of the producing causes. While this state has made rapid and signal advances in prosperity, it has been more obnoxious to the excitement of party than any member of the federal union.

Even during the gloomy periods of the revolution, this spirit was exhibited in a variety of shapes, and since that time it has scarcely ever ceased to agitate society. After giving full weight to the operation of other assignable causes, we are forced to conclude that there is a radical defect in the constitution of our government ; that it either wants some essential check against the progress of party, or that it contains in its arrangements the elements of discord and excitement. The assembly, which is the most numerous branch of the legislature, and which is annually chosen, elects every year, from the senate, four persons who, together with the governor, constitute a council of appointment. The offices in the gift of this council are remunerated by salaries or fees to the amount of a million of dollars annually. Combinations will be formed to obtain the control of this enormous patronage. And they will attempt to influence in the first place the elections of the people, by dictating under the forms and discipline of party ; secondly, the selection of the appointing power ; and thirdly the operations of that institution. And when no leading measures of the government have been impeached, and no important differences of opinion pretended, endeavors are not unusual to cherish the spirit of discord by conjuring up the shades of departed controversy, by appealing to the vindictive feelings of disappointment, or exciting the cravings of ambition and cupidity. With this principle of irritation in our constitution, the hydra of faction will be in constant operation, endeavouring to make its way to power, sometimes by open denunciation, at other times by secret intrigue, and always by artful approaches. The responsibility of public officers, is essential to the due performance of their trust, and is demanded by the properties of delegated power, and the best interests of the community. The council, as constituted, is almost entirely destitute of this essential requisite. The political tranquillity of the state demands a different arrangement of the appointing power. And I have no hesitation in recommending a convention for this and such other purposes as may be imperatively required by the public welfare. And I do this under a full persuasion that the powers of the convention cannot transcend the objects committed to their cognizance by the concurrent act of the legislature and people :—that the landmarks of security to liberty, property, religion, and life, will be inviolably preserved and more firmly established ; and that the measure which will be adopted will have a benign influence in preserving the harmony of the community, and elevating the reputation of the state.

Your immediate attention in filling up the vacancy in the senate is required in consequence of the position of the United States in relation to some of the powers of Europe. And while it is understood to be at all times important to select from our most enlightened and experienced statesmen for that high trust, it must be admitted that it is peculiarly so at the present crisis, whether we refer to our foreign or domestic concerns. The depression of our

manufactures, the disordered state of our currency, the diminution of the national income, and the derangement of the commercial interest demand the solemn consideration of the national government, and the exercise of the best talents of the country. But when we extend our view to our foreign relations and consider the points which remain to be adjusted with Great Britain and Spain, the importance of a judicious selection is greatly enhanced. The pacific policy of the national administration is entitled to our cordial approbation, for we should be blind to our true interests were we to embark in hostilities even with a feeble power, unless a measure of this decided character is enjoined by considerations essentially affecting the honor and welfare of the nation. Every year of peace will consolidate our strength, improve our resources, and increase our population. And by the uninterrupted progress of our internal improvements, and continued cultivation of our primary interests, we shall before a long time present such a formidable power, that policy will unite with justice in conceding to us without the application of force all that we ought to require from foreign nations. But if in the mean time aggressions shall be committed of such a character that an appeal to the sword is demanded by irresistible considerations, I trust that there will be an entire union of sentiment and exertion in vindication of the violated rights and honor of our country. Nor can I conceal on this occasion the deep anxiety which I feel on a subject now under the consideration of the general government; and which is unfortunately calculated to produce geographical distinctions. Highly important as it is to allay feelings so inauspicious, and to cultivate the most friendly communion with every member of the confederacy, yet I consider the interdiction of the extension of slavery, a paramount consideration. Morally and politically speaking, slavery is an evil of the first magnitude; and whatever may be the consequences, it is our duty to prohibit its progress in all cases where such prohibition is allowed by the constitution. No evil can result from its inhibition more pernicious than its toleration; and I earnestly recommend the expression of your sense on this occasion, as equally due to the character of the state and the prosperity of the empire. The people of the United States are distinguished from all other nations by the exercise of the right of self government. Every authority proceeds directly or indirectly from their appointment. From the primary assemblies of the people in town meetings to the county conventions of supervisors, or to the municipal authorities of cities or villages, and from their representatives in the state legislatures, to the delegates of districts or states in the congress of the United States, may be distinctly seen the legitimate source of sovereign authority, the paramount ascendancy of the people. Seated in a country of vast extent, with a fertile soil and a climate, adapted by nature for the display of the faculties and energies of man, and holding in their hands the destiny of the government, they are called upon to present a great and

imitation of posterity and the benefit of the world in the cultivation of religion and morality, in the diffusion of knowledge, in the advancement of the arts and sciences, and in the promotion of all that can confer honor and happiness on nations.

But if they shall pursue a different course ; if they shall shut their ears against the warning voice of truth, and their eyes against the light of experience, and rush precipitately upon the rocks and shoals which have hitherto shipwrecked the interests of the human race ; then indeed will the hopes of patriotism and the prayers of benevolence be equally unavailing, and the brightest prospects that ever opened on the world be extinguished in darkness. Let us remember that in proportion to the extent and population of this state, and in proportion to the faculties with which we have been endowed by providence, shall we participate in this responsibility ; and let it be deeply and indelibly impressed on our minds that we can never transmit a great example nor an illustrious reputation to future generations, without cultivating with unremitting attention and primary devotion, those cardinal interests which constitute the happiness of individuals, and the prosperity of nations.

DE WITT CLINTON.

Albany, January 4, 1820.

On the seventh day of November one thousand eight hundred and twenty, the Governor delivered the following

SPEECH :

GENTLEMEN OF THE SENATE AND OF THE ASSEMBLY,

ON the recurrence of an election of president and vice-president of the United States, the annual meeting of the legislature is transferred from its usual period to this time, in consequence of the choice of electors by that body : and notwithstanding an adjourned session has been considered expedient after the transaction of extraordinary business, yet it has been usual for the executive to make his communication at the first meeting ; and as this measure is recommended by its salutary tendency, and will enable the legislature in the recess to bestow deliberate attention on the subjects recommended to their consideration, and to consult the sense, and understand the views of their constituents, I shall not hesitate to comply with the customary rule on this occasion.

In adverting to the object of this anticipated meeting it will readily occur to you, how much better calculated it would be to promote economy, and to preserve the purity of republican government, and how much more consonant with the representative

principle, if the choice of electors were brought nearer home to the people. Indeed, it must be considered a striking imperfection in the national constitution, that no uniform rule has been prescribed on this subject. In some states, electors are chosen by the people by districts; in others, by a general ticket: and in a few, by the legislature: the last mode is certainly the most objectionable. A body not numerous, and selected for several months previous to the period of action, is exposed to the operations of intrigue, and is not so safe a depository of this great trust, as the community at large. In some cases, a minority of the people may choose a majority of the legislature. The election of that body in time of public tranquillity, may be made without much reference to this object, and there is such a considerable intervening time before the choice of electors, that a full and fair expression of the public sentiment may not take place, or may be defeated. The people are certainly less liable to improper influence, than any other body of men, and in their purity, discernment, and public spirit, we must rely for the stability and permanence of our republican institutions.

When I had the honor of occupying a seat in the legislature, I was so forcibly impressed with considerations of this nature, that I esteemed it my duty to introduce an amendment to the constitution predicated on district elections by the people. This principle was sanctioned at that time, and since, by the legislature; but it has never been engrafted into the constitution. As it may be supposed that those states where district elections are established, will not be in a situation to express an undivided opinion, and will therefore be placed in a worse position than those where a general choice prevails, I would suggest the expediency of providing in future for a choice by the people, of electors by general ticket, until an uniform rule by districts is constitutionally established. This will place the choice of the principal magistrates of the nation where it ought to be: more completely within the control of the sovereign authority. And as there are now two intervening bodies, between the people of this state, and the election of president and vice-president, I see no reason why the principle of exclusion should be applied almost entirely to them.

In the course of your proceedings, you will also be called upon to elect a senator of the United States. The position of our national concerns will undoubtedly demand the utmost circumspection, as well on this subject, as on the more immediate object of your meeting. In order to meet the deficiencies of the national revenue, great retrenchments must be made in our expenditures, and wise plans of finance must be adopted. Our resources may be cherished, and the evils of heavy taxation or increasing debt, may be averted by the abolition of useless offices, by the diminution of expensive establishments, and by the cultivation of that economy, which is most congenial with the simplicity of republican government, and which is required by the great pressure on

the nation ; keeping, however, always steadily in view the public defence, and the general safety. In order to resuscitate the prosperity of the community, it is also necessary to cherish the interests of productive industry, and to promote the internal improvement of the country.

It is to be regretted that the collision, which took place at the last session of congress, relative to the prohibition of slavery in new states, should have been attended with so much irritation ; and that it should be considered as an attack on the local authorities, and an attempt to violate the rights of property. In states where slavery has been established by law, it is not in the power of the national government to interfere ; and all regulations on this subject must proceed from the local government : but in the admission of new states into the union, it is the duty of congress to protect the great obligations of morality ; to enforce the principles of the American revolution, and to consult the paramount and permanent interests of the empire.

As a member of the American confederacy, it is not only our duty, but our interest, to sustain the respectability, and to promote the authority of the national government, by a patriotic and enlightened exercise of our suffrages, and by contributing all our energies to establish a wise and public spirited administration. But in attending to measures so important, we ought not to overlook the duties which we owe to ourselves. Our government is complex in its organization ; and it is essentially necessary to preserve the state governments in their purity and energy. A free government could never exist in a country so extensive as the United States, without a judicious combination of the federal and representative principles. The apprehensions which some of our wisest statesmen entertained at the formation of the constitution, that the state governments would constantly encroach on the powers of the national government, appear not to have been realized. The practical tendency has been in the opposite direction. The power of the general administration has increased with the extension of its patronage. And if the officers under its appointment shall see fit, as an organized and disciplined corps, to interfere in the state elections, I trust that there will be found a becoming disposition in the people, to resist these alarming attempts upon the purity and independence of their local governments : for whenever the pillars which support the edifice of the general government are undermined and prostrated, the whole fabric of national freedom and prosperity will be crushed in ruin. I have considered it my solemn duty to protest against these unwarrantable intrusions of extraneous influence, and I hope that the national legislature will not be regardless of its duty on this occasion.

If the ingenuity of man had been exercised to organize the appointing power in such a way as to produce continual intrigue and commotion in the state, none could have been devised with more effect than the present arrangement. We have seen its pernicious

influence in the constant commotions which agitate us ; and we can never expect that the community will be tranquil, or that the state will maintain its due weight in the confederacy, until a radical remedy is applied. Under this impression, I have heretofore proposed the calling of a convention. The constitution contains no provision for its amendment. In 1801, the legislature submitted two specific points to a convention of delegates, chosen by the people, which met and agreed to certain amendments. Attempts have been made at various times to follow up this precedent, which have been unsuccessful, not only on account of a collision of opinion about the general policy of the measure, but also respecting the objects to be proposed to the convention. These difficulties may be probably surmounted, either by submitting the subject of amendments generally to a convention, and thereby avoiding controversy about the purposes for which it is called : or, by submitting the question to the people in the first instance, to determine whether one ought to be convened : and in either case, to provide for the ratification by the people in their primary assemblies, of the proceedings of the convention. This double check will be admirably calculated to carry into effect the sovereign authority of the people : to guard against dangerous interpolations in our fundamental charter : to check a spirit of pernicious innovation, and empirical prescription, and to allay the apprehensions of some of our best and wisest fellow-citizens, who, already satisfied with the signal prosperity and high destinies of the state, are unwilling, for the sake of some improvements, to encounter the risk of changing materially the features of the constitution, which, in its general conformation, is admirably calculated to promote the happiness, to elevate the prosperity, and to protect the freedom of the community.

It affords me the highest satisfaction to renew my congratulations on the successful progress of our internal improvements. Upwards of fifty-one miles of the canal between the Genesee river and Montezuma, including fifteen locks, are under contract, and the whole distance of sixty miles and a quarter, with two additional locks, can be easily completed by the first day of September next. The contracts made during the last season, were on better terms for the state than those on the middle section ; and during the present year, they are from thirty to forty per cent. lower, including the mason work. Thirty miles of the section east from Utica, are also under contract, including twelve locks, and will be completed the next season.

In the progress of these operations, rocks have been excavated at the Little Falls in seventy or eighty days, which it was originally supposed would have taken two years. The improvements in the Hudson river, and by canals, to the distance of twenty-eight miles south from Fort Edward, will be effected the next season ; and it is hoped that the remaining ten miles to Waterford, which will finish the whole operation of the inland navigation of the north

can also be accomplished within that period. There will then remain about one hundred miles on the western, and about sixty-eight on the eastern section, in order to realize our whole system of internal navigation. The limitation of the annual expenditure has had a tendency to procrastinate the completion of this great work : and under a full persuasion that the whole can not only be accomplished, but well accomplished in three years at the utmost, from the present period, I earnestly recommend the adoption of plenary and effectual measures for this purpose. The advantages to be gained by this course will be great and striking. The faculties of the state are fully adequate to the operation, and all controversy about the order of completion will be avoided. The civilized world is now in a state of peace ; but the symptoms of great and extensive convulsions begin to appear in Europe, and if wars shall unfortunately afflict that portion of the globe, we will perhaps be compelled to assume a defensive attitude against aggressions on the rights of neutrality, which may finally plunge us into hostilities. Now that we are free from great national calamities, and the prices of money, of labor, and of commodities, are uncommonly low, we ought to avail ourselves of the favorable opportunity. The public sentiment is now united in favor of the measure, and the progress of time may create opposition from chimerical apprehensions, from selfish views, from jarring interests, and from local competitions. The increased accommodation and easy communication will immediately create a vast inland trade : and if we only suppose that one hundred thousand tons are annually transported on the western canal, the revenue, at the rate of five dollars a ton for the whole distance, will defray all the expenses of repairs and superintendence, and extinguish in a short time the whole debt. A step of so decided and energetic a character will also encourage the patriotic state of Ohio, to pursue its noble attempt to unite the waters of Lake Erie and the Ohio river. And surely there can be no hesitation in devoting the resources of the state, to the speedy and effectual accomplishment of a measure which, in the language of the act of 1817, "will promote agriculture, manufactures and commerce ; mitigate the calamities of war, enhance the blessings of peace, consolidate the union, advance the prosperity, and elevate the character of the United States."

The final and complete establishment of an able and respectable board to superintend the general interests of agriculture, is an event of the highest importance ; and the exhibitions which have taken place in different counties under the auspices of the local societies, evince increasing improvement in the quality and quantity of the fruits of the earth. Notwithstanding the present indifferent market for the products of husbandry, it is pleasing to perceive the general and rising estimation in which this pursuit is held, and the zeal with which it is cultivated ; and the progress which it is making. In course of time the natural increase of the population, the wages of labor, the price of com-

money will be restored. And as the evils now felt arise from arrangements heretofore made on the existence of high prices, all prospective operations will be accommodated to the reduced state of the market : and the country will emerge slowly from the evils with which it is now environed.

Agriculture must look for its principal and solid encouragement to the home market, and this will be improved by the general augmentation of our population, and especially by the increase of that portion of it, which is not engaged in the cultivation of the earth. The manufacturing interest, and that numerous class of the community which will be employed in the inland carrying trade, and the dealers in the sale, purchase, and exchange of commodities, must constitute the most efficient friends to agriculture. The fluctuations of harvests in different parts of the United States, and the differences of productions will frequently produce facilities in the way of reciprocal supply ; and the necessities of Europe will almost always create, in a greater or less degree, a demand for our staple articles.

It may be proper on this occasion to call your attention to the expediency of lowering the rate of interest of money : and as the period has arrived when a census of the people of this state ought to be taken, with a view to an equal and just apportionment of the representation in the legislature, I am persuaded that you will perceive the great utility of directing at the same time such other statistical investigations, as may illustrate our resources, and point out the road to increased wealth and prosperity. The discovery of an important hydraulic cement will add greatly to the general convenience ; and if you shall see fit to encourage the discovery of coal, I feel confident that it will be attended with success, and that the beneficial influence of this measure will be felt in the promotion of manufactures, and in the accommodation of the whole community.

The flourishing condition of our seminaries of education, furnishes additional inducements to continue and to extend the patronage of the state. In six thousand common schools, organized under the act for their establishment, three hundred thousand children are taught, and \$160,000 are annually appropriated to the compensation of the teachers. I am informed by the useful and able officer, who presides over this department, that the number of pupils at present taught in our schools is equal to nine tenths of the whole number of children between the ages of five and fifteen years, which approximates to one fourth of our whole population. There are probably twenty schools in this state conducted on the Lancasterian system exclusively, and several others which follow it partially, but not so far as to assume a distinctive character. In some of these establishments, several young men have been recently instructed as Lancasterian teachers ; and it is to be hoped that this system will be carried into the most extensive operation. There are now upon an average about fifty scholars

for every school-master, under the present plan of common schools ; and whether the number be great, or be small, the introduction of the Lancasterian method is of importance ; for admitting in all cases the competency of the teacher to attend to all his pupils, yet when we consider the rapidity of acquiring instruction under that system, and reflect on the useful habits which it forms, and the favorable impressions which it makes on the minds and morals of those who participate in its benefits, we cannot hesitate to give it a decided preference. The education of youth is an important trust, and an honorable vocation ; but it is too often committed to unskilful hands. Liberal encouragement ought unquestionably to be dispensed for increasing the number of competent teachers.

In thirty of the forty incorporated academies, there were the last year two thousand two hundred and eighteen students, of which six hundred and eighty-eight were engaged in learning Latin and Greek. The fund appropriated for the benefit of these institutions, is about 320,000 dollars.

In Columbia, Union, and Hamilton colleges, there are five hundred and twenty-two students, and in the two medical colleges, one hundred and ninety-six. the grants to these establishments amount to upwards of 720,000 dollars : and perhaps the whole appropriation for the promotion of education, may be estimated at two millions and a half of dollars. Although this sum may appear highly liberal, yet when we look at the resources, population and extent of the state, and consider, that knowledge is essential to the happiness and dignity of man ; to the existence of republican government, and to national power and glory, we must feel persuaded that more munificent dispensations ought to be afforded for its encouragement and diffusion. And I would particularly recommend, the education, at the public expense, of youth distinguished and selected for moral superiority, or pre-eminence of talents and character. A measure of this nature is strictly in unison with the genius of our government, and would have a tendency to restore the equilibrium of society ; to mitigate those prejudices which spring up in the freest communities ; to develop intellectual resources, which would otherwise be lost to the world, and to excite a spirit of emulation propitious to the interests of knowledge and promotive of the fame and prosperity of our country. When I contemplate the vast resources of the state, and particularly the immense revenue which will accrue from the completion of its great plans of internal improvement, I entertain a confident expectation that the rising, and all future generations will experience the continued and increased munificence of government, exercised in different ways and through various channels, for the promotion of instruction, and the propagation of knowledge.

A growing spirit of improvement has been generally manifested by the militia ; and in some sections of the state it has been exhibited in an extraordinary degree. The adoption of a plate and

feather for the hat, in the city of New-York, has given an uniform and military appearance to the infantry: and the great attention which several distinguished officers in that and other places have devoted to the promotion of military knowledge, is entitled to high commendation. During the late war, a brigade of horse or flying artillery was organized in the Atlantic parts of the state. In the formation of the present militia code, this brigade was not recognized, and no provision was made to enforce the attendance on parades of the officers and privates of that part of the brigade, that belongs to the city of New-York; nor can any court martial be instituted for their trial under the present system. As this is a very useful and efficient institution, I recommend it to your favorable consideration. A laudable provision for the distribution of elementary books in the military art, has been confined to the infantry. The other departments of our military force are anxious to enjoy similar benefits: and on this occasion it may not be improper to mention, that an able treatise on artillery, has been recently published under the patronage of the national government, and which, as it deserves, it is to be hoped will receive your encouragement.

I conceive it an indispensable duty to call your attention once more to the state of our penitentiary system. In corroboration of the observations, which I have heretofore communicated, permit me to state, that the increasing expense, and partial failure of this system, may be principally ascribed to an injudicious organization of its government, and to an inexpedient arrangement of the buildings. The government of our state prisons is intrusted to several respectable citizens, who act from patriotic motives, and without compensation. The affairs of the establishment are principally managed by officers under their control. When the vigilance of self-interest ceases to operate in any institution, its place must be occupied by adequate and powerful substitutions, by imposing responsibility, and by exacting exclusive and undivided attention.

The operation of the present administrations of our penitentiaries is to create a nominal authority in the inspectors, but to invest the substantial control in subordinate agents. The former attend but seldom, and, indeed, a rigid attendance cannot be expected, where officers are not remunerated for their services. The consequences are obvious. These important institutions are almost entirely directed by incompetent men, who were not contemplated nor intended for that purpose, and the pecuniary affairs, as well as the moral discipline of the establishment become distracted and deranged. The state prison at Auburn is, by a late arrangement, modeled on the plan of solitary cells. In London a prison has been recently erected containing seven hundred cells: at Pittsburgh, in Pennsylvania, one is now building, of six hundred cells, each six by eight feet. A building on this plan will not be so expensive as on the old one. It will not be necessary to make it so strong: the prisoners will have no chance of forming conspiracies, and hence all escapes will be prevented. The expense of a

military guard would be saved : the duration of punishment might be usefully abridged, and, above all, we might be certainly assured, if not of a reformation that will prevent, of a punishment that will deter, from the repetition of crimes. I am happy to state that the New-York society for the prevention of pauperism, have instituted an inquiry on the subject of the penitentiary system, which will be attended with favorable results ; and that improvements are absolutely necessary, may be inferred from the fact, that in all probability there is one convict incarcerated for crime, in every thousand persons composing the population of the state.

It is universally conceded, that one of the most pernicious modes of raising revenue, is by the establishment of lotteries. The spirit of gambling which it generates, and the demoralizing influence which it exercises, are greatly to be deprecated. With a view to mitigate the resulting evils, the avails have been generally applied to the promotion of education and internal improvements. But it is to be hoped, after the existing grants are satisfied, that this expedient for raising money will be entirely abandoned. In the mean time, I am sorry to say, that the evils are multiplied upon us, by a forced construction of the powers of congress, and that the local authority of that body over the district of Columbia, exercised for municipal accommodation, is attempted to be erected into an authority to ride over the laws of the states. Such a palpable and mischievous usurpation can never be sustained nor tolerated.

I should do injustice to the feelings which I entertain and cherish, were I not to avail myself of this occasion to communicate to the people of this state, my grateful acknowledgments for the renewed expression of their favorable opinion. With a deep sense of my inability, and with a humble reliance on the blessings of Almighty God, I shall endeavor to merit the confidence of my fellow-citizens, by every proper exertion to promote, in all cases, their individual and collective prosperity, whether I am called on to act exclusively, or in co-operation with the co-ordinate authorities.

DE WITT CLINTON.

Albany, November 7, 1820.

On the second day of January one thousand eight hundred and twenty-two, the Governor delivered the following

SPEECH :

GENTLEMEN OF THE SENATE AND OF THE ASSEMBLY,

SINCE the adjournment of the legislature, an event has occurred of the highest importance to the people of this state : The delegates elected "for the purpose of considering the constitution of this state, and making such alterations in the same, as they may deem proper, and to provide the manner of making future amendments thereto," have concluded their deliberations, and presented the result for the ratification or rejection of the people, in the shape of a new constitution, varying essentially in many of its provisions from the present frame of government. As this subject is now under the consideration of the supreme and sovereign power of the community, the source of all legitimate government, it would be obviously improper for the derivative and subordinate authorities to interfere in their official characters with its deliberations and decisions. Whatever advice we offer, whatever determination we form, and whatever course we pursue, must be indicated in our individual capacities, as component members of a great community acting in its sovereign character : And whenever the momentous decision is made, and whatever it may be, it will be our incumbent duty to obey implicitly the determinations of the people, and to carry into full effect their expressed volitions. Were it not for considerations so imperative I should on this, as I trust I have on all proper occasions, have communicated with frankness and candor, my views in relation to the bearing of this important question on the public welfare. It is a spectacle truly felicitating, to observe the calm and dignified moderation with which our constituents have approached this important subject, for so far as my observation has extended, the discussions have been free from the usual asperities and agitations of the times. It is indeed not a question involving the views of personal ambition, the interests of party ascendancy, or the feelings of local contention. It looks to the past for enlightened instruction, to the present for wise and patriotic decision, and to the future for general and permanent benefit. To perceive a vast and growing population sitting in judgment on its own form of government, acting with intelligence, independence and firmness, discarding minor and evanescent considerations, and consulting the greatest happiness of the greatest number, is a sublime sight, administering to the best hopes and answering the highest expectations of the friends of republican government. And let us humbly supplicate the Supreme Dispenser of all good to shed his propitious influence on this occasion, and to produce a result auspicious to the stability of civil liberty, the ascendancy of good government, and the prosperity of our beloved country. In

all the vicissitudes of an eventful existence, in the first migrations and settlements of our forefathers, in the trials of our colonial dependence, in the struggles of a glorious revolution, in the establishment of free and energetic governments, and in rapid and wide-spreading advances to prosperity, it has pleased Almighty God to consider us with an eye of paternal indulgence, to watch over us with his providence, and to protect us against those overwhelming evils which have been so fatal to the best interests of the human race; and may we not humbly hope that the same gracious dispensations will attend our future progress, and that we may be permitted to exhibit an irrefragable proof and an illustrious example of the capacity of man for self-government, and of his triumphant advances in all that can add dignity to his character and derive blessings from his exertions.

The labors of agriculture have for the last season been crowned with abundance, and the institutions which have been founded for the encouragement of this important pursuit, continue to produce the most beneficial effects. A great amelioration within a few years is observable in all the departments of rural economy. The rapid improvement of live stock, the judicious application of manures, the increased production of the various kinds of grain, and other vegetables, the introduction of new objects of cultivation, the invention and adoption of excellent implements of husbandry, and a growing attention to the promotion of horticulture, have unquestionably originated in a great degree from institutions which concentrate the fruits of experience, which apply the discoveries of science and the inventions of art, and which excite into activity all the generous principles of emulation, and all the latent powers of improvement.

The great and sudden augmentation of the price of our principal commodity, in consequence of an anticipated relaxation of the corn laws of great Britain, and its subsequent declension on the receipt of unfavorable intelligence, are calculated to make a deep and serious impression on the public mind, and to point to the sources of evils which it may be in our power to obviate. The excess of the products of the soil beyond the consumption of the agricultural interest, must either find a sale in the home and foreign markets, or be lost to the proprietors. To rely upon foreign markets, is to expose ourselves to the caprice of foreign policy, and to commit primary interests to the guardianship of rival nations. We must, therefore, consult the substantial and permanent prosperity of agriculture, by providing for the domestic consumption of its production; and this can only be accomplished by the dense population of manufacturing towns and commercial cities. And it is indeed highly satisfactory to witness the growing prosperity of the manufacturing interest, after the blow which it received on the termination of the late war. In its fabrics, its commerce, and all its operations, it stimulates agricultural industry, by purchasing its productions and administering to its

and as the superabundance of the 'products of agriculture, and manufactures, must create the materials for foreign commerce, it is obvious that all these great departments of human industry are dependant on each other, and are closely connected in promoting the general prosperity. A nation purely agricultural which derives the fabrics of art from foreign supplies will almost always be poor. Commerce in order to be beneficial, ought to export more than it imports. And the general state of our country emphatically inculcates the necessity of intrenching ourselves in our own resources, of cultivating the creative powers of domestic industry, and of banishing those excesses of luxury and extravagance, which are the bane of individual happiness and republican virtue. In the excess of our imports above our exports, the prodigal consumption of foreign commodities, the unfavorable rate of exchange, and the exhausting exportation of metallic money, we perceive the sources and the signs of individual distress, and national debility. And the course of this commerce, which is recommended, not by the wealth it produces for the people, but by the revenue it creates for the government, must eventually be arrested by the poverty and misery which it will generate. There is no truth more evident than that our importations must be finally governed by our exportations, for if we consume more than we create, if we buy more than we sell, we must sooner or later encounter a crisis when our credit and our resources will be exhausted. The necessity of encouraging the home market will be more manifest when we consider that our principal commodities are excluded from foreign countries. Flax seed and pot and pearl ashes are indeed admitted into Great Britain, but the West India Islands are closed against us and in the loss of a valuable market for our live stock, lumber and grain, we experience no inconsiderable injury. Relying upon the wisdom and public spirit of the national authorities to devise and apply efficacious remedies for these evils, either by amicable arrangements or counteracting restrictions, let us attend to those duties which the importance of the occasion and the severity of the pressure imperiously demand from our hands.

Under this impression it is gratifying to perceive the enterprising spirit of our agriculturists seeking various sources of emolument, directing itself to new objects, and extending its operations over a greater area. When our manufactories were, in a great measure prostrated, the price of wool underwent a corresponding depression; but there is now every reasonable encouragement for the raising of sheep; and all that branch of rural economy, which embraces grazing and live stock in general, has been a lucrative occupation. Our husbandmen have also turned their attention to the cultivation of hemp and flax, and a machine which has lately been invented for the preparation of these articles, will, in all probability, form a new era in our agriculture. It is estimated that one machine can prepare a ton in a day, at the cost of two

cents a pound, thereby surmounting every objection that has been made against this kind of husbandry, and supplying the raw materials of several invaluable manufactures, with a facility equal in importance and similar in character to that which has been so successfully experienced in the cotton of the south. The iron ore of all descriptions which is found in many parts of the state, inexhaustible in quantity and unsurpassed in quality, has lately attracted pointed attention, and will enable us in a short time to dispense with importations. Salt, manufactured in the vicinity of the ocean, or from those inexhaustible depositories which nature has provided in the interior of the country, can be procured without resorting to foreign supplies.

Various manufactures, entitled to every encouragement, are rising into notice and usefulness; and I might particularly indicate a valuable establishment in the city of New-York, which, with the adoption of an ingenious invention, is enabled to work up great quantities of wool and cotton; to employ several hundred persons, and to save several hundred thousand dollars to the country. A powerful and general impulse has been given to the fabrication of cotton cloths, thereby rendering us, to a considerable extent, independent of extraneous supplies, and establishing, upon a firm foundation, a valuable and increasing market for the most important productions of our southern brethren. And when we extend our view to those great federal republics which are rising up in the southern section of America, breaking the chains of colonial dependence and commercial monopoly, asserting the rights and vindicating the dignity of human nature, with glorious and triumphant success: and when we contemplate the commercial relations which will grow out of these momentous changes, and the close alliance of interest and intimacy of communication which must necessarily arise from facility of intercourse, from proximity of territory; from reciprocal wants, and from republican sympathies, we must be encouraged in our career of productive industry, under a full persuasion that it will find an ample remuneration for its exertions in the extension of its accommodations to the most opulent regions of the globe.

I trust that I shall not be considered as entering too much into detail, when I call your attention to the law providing for the inspection of pot and pearl ashes, which articles constitute at present our principal export. It often, as is stated to me, amounts annually to 30,000 barrels, exclusive of 18,000 which pass into Canada. This commodity, inspected under the laws of Massachusetts, has brought five pounds sterling more a ton, than ours, in foreign markets: and this is believed to arise, not from a superiority of inspection, but from a superiority of the barrel in which the article is contained. Our law allows an incompetent sum to the inspector for a new barrel in case the package is bad: the consequence is, that barrels which ought not to be exported, are repaired for the purpose, and the article sustains such injury in the transportation, that its character is depressed in foreign markets.

Permit me once more to call your attention to a subject which deeply involves the prosperity of our manufactures and the general accommodation of the community. The opulence of Great Britain is to be ascribed, in a great degree, to her manufacturing pursuits, which could not be carried on, without the coal that abounds in that country. Our forests are falling rapidly before the progress of settlement, and a scarcity of wood for fuel, ship and house building, and other useful purposes, is already felt in the increasing prices of that indispensable article. No system of plantation for the production of trees, and no system of economy for their preservation has been adopted, and probably none will be, until severe privations are experienced. In some parts of Long-Island, and in the vicinity of the great canal, in several of the western counties, extensive beds of turf or peat have been found, and have been resorted to for domestic accommodation. But coal is of primary importance in many of our most important manufactories : and the discovery of a sufficient quantity, within a reasonable distance of any of our navigable waters, would be more efficacious in quickening the operations of creative industry, administering to the comforts of life, and promoting the substantial wealth of the country, than the most productive mines of the precious metals. The geological conformation of the west clearly demonstrates the presence of this fossil, and I am confident that liberal encouragement on the part of the state would produce the effectual accomplishment of our most sanguine anticipations.

It is an unquestionable truth that all the great interests of society must rely for their support and encouragement on the flourishing condition of internal trade, which can never exist without facility of communication. And under this impression we cannot too highly appreciate the importance of the artificial navigation now in a train of rapid and successful completion. Almost all the line of the Western or Erie canal, from the Tonawanta creek which flows into lake Erie, to Hudson's river, is under contract. The section from the Seneca to the Genesee river comprising a distance of sixty-three miles, is nearly in a navigable state, and the whole of it would have been finished the last season, had it not been for the sickness which interrupted the progress of the workmen in the Seneca marshes, and the necessity of affording time for the consolidation of the great embankments at the Irondequoit. Upwards of twenty-seven miles of the eastern division from Utica to the Little Falls, have already been navigated, and great progress has been made towards the completion of those parts of the canal that lie west of the Genesee river and east of the Little Falls. The Northern or Champlain canal is also in a state of rapid advancement : So that upon a full and comprehensive view of the whole operation, we may confidently pronounce, that before the termination of the year 1823, there will be a complete and uninterrupted navigation from the navigable waters of the Hudson river to lakes Erie and Champlain, comprehending an extent of upwards of 425 miles, and all of which will be accomplished since

the 4th day of July, 1817. Considerable difficulties and embarrassments have been encountered with respect to the most proper designations for the commencement and termination of the western canal ; and in some intervening places there has been a great diversity of views with regard to the most eligible routes. The canal board have, I trust, never been led astray by local considerations and ephemeral expedients, and will, I hope, be enabled, notwithstanding the embarrassment which must necessarily arise from conflicting opinions and clashing interests, to combine the accommodation of flourishing villages and cities with the promotion of the general convenience and welfare.

During the last autumn the solidity and stability of our works have been brought to the test by heavy rains and uncommon floods in the streams and rivers connected with the canals, and the general result has corresponded with our wishes, and has fortified our confidence.

I am happy to perceive the continuance of contemporaneous efforts on the part of two of the western states to initiate and create an artificial navigation between the river Illinois and lake Michigan and also between the Ohio river and lake Erie. Whenever either of these projects is executed, there will exist on the completion of the western canal, a water communication as well on the side of the great lakes, as of the Atlantic ocean, between the Hudson and the Mississippi, between New-York and New-Orleans, and the vast and populous regions connected with them. Considering that the patriotic states which contemplate these important works, are, comparatively speaking, in the infancy of their settlement, and have to struggle with the embarrassments which must necessarily arise from the peculiarity of their position, and taking into view the benefits which must result to the nation at large from the completion of these communications, it is right and proper that the national government should dispense its munificent aid, and I do not hesitate to recommend a favorable expression of the sense of the legislature on this subject. Claiming no assistance in the prosecution of our own operations, we can with the more force advocate the just views and promote the laudable objects of our sister states.

It is certainly expedient for the legislature on all great occasions, but especially in relation to future internal improvements, to cherish a prospective spirit, and to provide in season for the exigencies of future times. The creation of a general board for public improvements, to commence its operations after the completion of the present undertakings, would be a wise and patriotic arrangement. This board, selected from our most enlightened and public spirited fellow-citizens, and invested with power to establish and facilitate all useful channels of communication, and all eligible modes of improvement, would be enabled by a judicious application of the public resources, to conduct us to an elevation of unparalleled prosperity,

From June, 1817, to October, 1821, inclusive, 2,893,500 dollars have been borrowed for making the canal, and the lenders have advanced to the state \$91,202 50 in premiums, for the benefit arising from these investments of capital. Of the aggregate borrowed, 1,400,000 dollars were obtained at an interest of five per cent., and the remainder at six per cent. ; and 1,070,000 dollars have been received by the acting commissioners from the first day of January to the 14th December last. The yearly interest of the canal loans amounts to \$159,580.

The commissioners of the canal fund were authorised to borrow in 1821 and 1822, a sum which without the existing revenue will amount to \$1,600,000 each year ; provided, however that the interest on the whole sum borrowed shall not exceed the income of the canal fund for the time being. Under this power, \$1,400,000 were borrowed in the year ending the 30th November last. The canal fund is at present estimated to produce \$200,000 annually. It has actually produced to the 30th November, including \$2,200 received for tolls, \$167,767 23, to which if we add the commutation for the steam-boat tax paid the 24th of December, the amount will be \$172,767 23, independently of other tolls during the year, the aggregate of which is unknown, and exclusive also of the duties on salt for the quarter ending in November, which have not yet been received at the treasury. The avails from these sources, added to the before mentioned sum of \$172,767 23, will probably make the income of the canal fund at least to \$200,000. This sum, though more than adequate to pay the annual interest on the existing debt, will not be sufficient to authorise the commissioners of the canal fund to borrow the additional sum of \$1,400,000 for the next season ; and it is therefore requisite that further legislative provision be made for the purpose, especially as it is impossible to estimate with any precision the income for toll during the ensuing year.

The annual surplus of the canal fund after paying the interest of the debt now existing and to be hereafter incurred on that account, ought to be appropriated to the extinguishment of the principal : and as this excess will increase with the progress of time, the accumulation of population, the augmentation of wealth, and the extension of inland trade, there cannot be a doubt not only as to the rapid discharge of the debt, but as to the creation of an immense revenue, applicable to all the purposes of beneficial improvement, and all the objects of good government.

The public debt, besides the canal debt, consists of the stock debt created by the act to improve the funds, passed 21st April, 1818, which amounts to

Debt due the Bank of New-York,

\$1,000,000

280,000

\$1,280,000

For which a yearly interest of \$76,800 is paid.

The general fund of the state exclusive of the common school fund, the canal fund, the literature fund, and the Lewiston school

fund, amounts to \$3,077,856 98, principally in bank stock and bonds and mortgages.

The revenue for the year is estimated at \$469,928 91, which with 43,463 53, the balance in the treasury on the first of December, will make \$513,392 44, and as the expenses of government and other ordinary demands will not exceed \$379,800, there will remain the sum of \$133,592 44 to meet extraordinary appropriations for the current year and especially payment in part of the debt due to the Bank of New-York. Independently of this general fund the state owns near a million acres of land.

The common school fund consists of \$1,139,130 57, and twenty-five thousand acres of land. It yields annually \$77,417 86.

The literature fund amounts to \$89,535 82, which produces an income of \$5,142 43. It has also 5,856 acres of land.

The Lewiston school fund is \$3,757 35, the annual produce of which is \$212 74, a few lots of land are also invested in this fund.

The productive income of the canal fund arises from auction duties, duties on salt, canal tolls, and \$5000 as a commutation for a tax on steam-boat passengers.

The unproductive canal fund consists of Grand Island in the Niagara river : valuable lands bordering on the Onondaga salt springs and 104,632 acres which have been given by companies or individuals. And there is also a contingent canal fund composed of the proceeds of lotteries to be drawn after the sums granted by the present lotteries are paid, and a tax of \$250,000 on lands adjoining the canal, the collection of which is suspended.

This general view of the funds and resources of the commonwealth, is, I trust, calculated to encourage us in our career of useful improvement, and to elicit further manifestations of the public munificence on all proper occasions.

The excellent direction which has been given to the public bounty in appropriations for common schools, academies and colleges is very perceptible in the multiplication of our seminaries of education, in the increase of the number of students and in the acquisition of able and skilful teachers.

The Lancasterian or monitorial system, or as it has been emphatically denominated, the system of mutual instruction, is making its way in the community by the force of its transcendent merits. Our common schools have flourished beyond all former example : and our higher institutions, the seats of literature and science, continue to maintain the respectable character which they have so honorably acquired. Having in the course of the last year had an opportunity from personal observation to witness the progress of Columbia College, I cannot omit, on this occasion, to express the high sense which I entertain of the able superintendence of the trustees, of the learning and attention of the president and professors, and of the laudable advances of the students and my intelligence from the other colleges is also proportionate.

the progress of knowledge, and honorable to those venerable and distinguished men who watch over their interests.

Our medical establishments are also in a condition uncommonly prosperous.

I am happy to have it in my power to say that this state has always evinced a liberal spirit in the promotion of education, and I am persuaded that no considerations short of total inability will ever prevent similar demonstrations. The first duty of a state is to render its citizens virtuous by intellectual instruction and moral discipline, by enlightening their minds, purifying their hearts, and teaching them their rights and their obligations. Those solid and enduring honors which arise from the cultivation of science and the acquisition and diffusion of knowledge, will out-live the renown of the statesman and the glory of the warrior: and if any stimulus were wanting in a case so worthy of all our attention and patronage, we may find it in the example before our eyes, of the author of the declaration of independence, who has devoted the evening of his illustrious life to the establishment of an university in his native state.

As connected with this subject, I shall lay before you the proceedings of several legislatures, relative to the appropriation of a small portion of the national domain to the purposes of education. It is stated that in eleven new states and territories, the general government has appropriated one thirty-sixth part of the public lands for common schools, and one fifth part of that thirty-sixth part for colleges and academies. And, while it is admitted that this disposition is in all respects proper and laudable, it is contended, that the other members of the confederacy are entitled to a correspondent benefit out of the same common fund. This claim appears to be sustained by the most conclusive reasoning, and it is believed to be impossible for congress to resist an application so just and beneficial. If, however, this measure were calculated to embarrass the financial arrangements of the national government, to make a serious inroad on the national domain, or to disparage the interests of the states which have already been benefitted, I should be entirely unwilling to press it. Whatever ratio of distribution may be adopted, the quantum of population, or the extent of territory of each state, the deduction from the landed estate of the empire would be so small as scarcely to be felt. In either case it would not exceed ten millions of the four hundred millions of acres owned by the United States. It is our duty to co-operate in obtaining justice for our sister states as well as for ourselves. If we were willing to wave the benefit which might be derived from the success of this application, it would furnish no just ground of hostility to the claim in general, and indeed in such case it would entirely correspond with the dictates of magnanimity to advocate it with all our weight and influence. This state, on the basis of appropriation, originally adopted, would be entitled to 800,000 acres

for our common schools, and 160,000 for our colleges and academies, which with proper management, and in connection with existing funds would answer all the requisitions of education.

While the pacific state in general of the civilized world is a subject of sincere congratulation, we ought not to deceive ourselves with the chimerical expectation that we are to witness the continued absence of those awful calamities which have afflicted the human race. After long and severe struggles, unprecedented in the annals of mankind, a general peace became necessary. War is now in a very considerable degree a question of finance. And if the powers of Europe have stayed the hand of desolation in order to recover their exhausted strength, and to remove their fiscal embarrassments we may be assured that a re-establishment of the resources will produce a revival of the ravages of war. The extension of our territory from the Atlantic to the Pacific ocean has increased our points of contact and consequently of collision with foreign nations: And it is well known that it requires time as well as magnanimity to overcome prejudices and hostilities engendered and exasperated by competitions for the emoluments of trade, and antipathies in the fundamental principles of government. I took the liberty, on a former and similar occasion, to solicit the attention of the legislature to a revision and consolidation of our militia law, and I now consider it my duty to reiterate this request. A statute was passed on the 21st of April, 1818, entitled "an act to organize the militia of the state of New-York," and embodying all the provisions on this subject into one act. But by two subsequent statutes, passed on the 13th of April, 1819, and the 31st of March, 1821, our military code has been so obscured that it is questionable whether parades and courts martial are authorized in certain situations. Respectable members of the legal profession have taken different views of this subject, and appeals are now pending before the commander in chief. Some definite and uniform rule with respect to the employment of counsel before courts martial would prevent considerable embarrassment; many other provisions may be beneficially adopted, and one statute, embracing our whole military code, well digested, methodically arranged, and clearly expressed, would remove much perplexity and add greatly to the usefulness and respectability of the militia.

In order to render the militia effective in cases of emergency, it is expedient to provide them with the munitions of war. There is not a sufficient number of artillery pieces for the accommodation of the different artillery companies, and frequent requisitions are made on the commissary general for that purpose, which he is not able to answer. Provision for equipping the ordnance on hand, and the completion of an arrangement with the national government for a partial supply, may in some measure mitigate the present inconvenience. At all events, it is advisable to render the officers of the artillery liable for the safe keeping of the pieces intrusted to their care.

Our arsenals do not contain more than thirty thousand stand of arms for the supply of one hundred and twenty thousand infantry. Pistols and swords are wanted for our cavalry, and cannon for our artillery ; and at the present time all the implements of war can be procured on the most economical terms.

I avail myself of this occasion to recommend to your favorable notice a memorial from the municipal authorities of the city of Washington, respecting their public improvements ; and I am confident that you will always evince a disposition to promote the prosperity of a city founded by the illustrious father of our country, and established as the permanent seat of the national government.

By the 27th article of the treaty of amity, commerce and navigation between the United States and Great Britain, made in 1794, it was agreed "to deliver up to justice on mutual requisitions, all persons who being charged with murder or forgery committed within the jurisdiction of either, shall seek an asylum within any of the countries of the other, provided that this shall only be done on such evidence of criminality as, according to the laws of the place where the fugitive or person so charged, shall be found, would justify his apprehension and commitment for trial, if the offence had there been committed." But this treaty being no longer in force, and no conventional provision having been subsequently made on the subject, it has been questioned whether the national or state authorities are authorised by the laws of the land, or obligated by the law of nations, to surrender, in any case, fugitives from justice from foreign countries. A case has recently occurred, which induces me to solicit your attention to this subject.

A certain Jacob Smith, alias Jacob S. Redington, perpetrated, some time last year, in the city of New-York, the crime of forgery, by altering a set of bills of exchange drawn by the bank of Montreal on a commercial house in London, and after having sold the bills in New-York, he took refuge in Canada. Considering the aggravated nature of this offence, and the peculiar circumstances under which it was committed, I thought it expedient to apply to the Earl of Dalhousie, governor of Canada, for his official interposition ; and after consulting the legal authorities of the province, he ordered the offender to be delivered up to an agent appointed by me for the purpose of receiving and conveying him to the city of New-York for trial. As policy enjoins, so comity requires a reciprocation of the same friendly and liberal offices whenever it shall become necessary. The papers in this case will be laid before you ; and adequate general provisions on the subject will have a salutary tendency in preventing and punishing crimes and in expelling from our territory malefactors who resort to it from other countries, in expectation of impunity.

On the 23d of February, 1818, I submitted to the legislature a communication from the state of New-Jersey, relative to the settlement of the controverted eastern boundary line of that state.

I proposed the appointment of commissioners, with authority to make a case containing all the facts relative to our respective claims of jurisdiction wherever they may interfere, to the end that the same might be submitted to the consideration and final decision of the supreme court of the United States. Although this overture was dictated by a spirit of amity, and was entitled to and received the most respectful attention, yet it was not deemed expedient by the legislature to accede to it. In the mean time, the non-adjustment of the difference has been productive of feelings of irritation, which ought not to be entertained by sister and neighboring states, and measures have been pursued in relation to our exclusive grant of steam-boat navigation, which are complained of as bearing hard on the rights and interests of our citizens. Let me call your attention once more to this subject, and express a hope that speedy and effectual measures may be adopted for a final adjustment ; which, I trust, may be accomplished without compromising the honor, or sacrificing the interests of either of the states.

The final settlement of the claims of this state against the United States, has been procrastinated by the intrinsic embarrassments of the case, by the difficulties connected with the obtaining of vouchers, and by unavoidable delays attending an adjustment with the accounting officers, of claims so various, complex and extended ; and I find that some other states, having similar demands, have encountered the same inconveniences. I have however instructed the agent of the state to complete this business immediately, and, in the course of a short time, I hope to communicate to you a detailed and satisfactory report on the subject.

It is perhaps not an extravagant estimate to say, that the state has surrendered the benefit of property escheated by alienage to the amount of three millions of dollars : and it is certainly proper to mention, that this munificent spirit has not been reciprocated by foreign nations. I submit this subject to you without any other remark than merely to suggest the propriety of protecting the bona-fide purchases of our own citizens when we make such liberal provision for the benefit of aliens.

Grand Island, a very valuable tract of land in the Niagara river, has been appropriated for the benefit of the canal fund. By virtue of a statute passed for that purpose, I caused the expulsion from that island of a considerable body of intruders, and since that event a number have renewed the aggression to the great injury of the state, and in defiance of its authority. As it is questionable whether the power granted to the executive by the act is not spent, it may be advisable for you to take this subject into consideration.

The statute passed at the last session, proscribing the use of oaths in certain cases, as unnecessary and unfavorable to the morals and good order of society, has been very satisfactory to those merito-

rious citizens who believe that oaths are repugnant to the injunctions of our holy religion : and as there appears to be a general opinion in favor of the expediency of the measure, it is to be hoped that on all future occasions we will not lose sight of a principle recommended to our countenance by such impressive considerations.

While it is highly proper that adequate measures should be adopted for the destruction of noxious wild animals, yet it by no means follows that extravagant rewards should be drawn from the public treasury, and undue burthens imposed on landed property for that purpose. Independently of local premiums, there has been paid by the state for the six last years (as will appear from a statement herewith submitted) \$13,985 for the destruction of wolves in Franklin county, while during that period, \$5,810 77 only have been received in taxes from that county, and the state has paid besides \$32,595 25 for the arrears of non-resident taxes.

The condition of the Indian tribes in this country demands our sympathy and assistance. Rapidly diminishing before the progress of our settlements, and feeling the impossibility of pursuing their favorite employments in the vicinity of civilization, several of their leading men have for a long time contemplated a removal to more distant and sequestered regions, where their existence as a people may be prolonged ; and on the 18th of August last, a treaty was made at Green Bay, in the territory of Michigan, between certain deputies of the Oneida, Onondaga, Seneca, St. Regis, Stockbridge and Munsee nations, residing in this state, and the head men and chiefs of the Menomini and Winnebago nations of Indians, for the purchase of an extensive territory in that quarter. Whether the arrangement will receive the approbation of the general government, or the ratification of our Indian tribes, I am not at present advised ; but whatever may be the result, whether they remain or depart, I trust that this remnant of our red population will always experience our liberality and protection. A copy of this treaty will be communicated for your information.

The state of our criminal jurisprudence is at all times worthy of our attention. We are now trying whether punishments comparatively mild may not operate efficaciously on society by preventing crimes, and on criminals by producing reformation. In considering and prosecuting the latter object, in a spirit of benevolence, and with commendable attention and anxiety, we have perhaps not always sufficiently estimated the superior importance of the former. The end of punishment is the prevention of crime, by the infliction of pain and the operation of fear ; and if, in exercising this salutary influence on society, it can at the same time restore the guilty to virtue, it will be entitled to additional credit. Our present system may be improved in a moral classification of offenders, in the introduction of solitary imprisonment, in the establishment of a diet adapted to the nature of the offence, and the cha-

rafter of the criminal, and in a division of prisons, appropriating one for the reception of minor offenders, and the purposes of productive labor and personal reformation ; and the other to severe and inexorable punishment, where society should not afford its comforts, nor labor its employments, and where the pardoning power should never reach.

A proper arrangement of diet is an idea too familiar to require illustration ; but it may not have occurred to you that a scale of punishments may be established under the general head of solitary confinement. The most severe infliction would be entire solitude in darkness, without employment, and the only food bread and water ; the next would be total seclusion, without employment, in light, and with the same means of subsistence. Again, the same with employment ; then solitary confinement with improved food ; and finally, solitary seclusion occasionally. The adoption of this plan might supercede the necessity of protracted confinement.

It is certainly advisable to direct your view at our criminal code in general, and to remedy some of its glaring defects. In the infliction of punishment there is too great a latitude allowed to judicial discretion. Some offenders are punishable with imprisonment in the state prison for life, or some shorter period in the discretion of the court, or some shorter period not less than seven years ; while others are liable to be imprisoned for terms not exceeding fourteen, ten, seven, five and three years. There are fifty-two courts of general sessions in the state, besides courts of special sessions, which last have cognizance of petty offences ; and courts of oyer and terminer are held in each county. The measure of punishment is too often regulated by the personal character of the judge, or by adventitious circumstances not inherent in the crime ; in some cases too mild, in others too severe : and frequently requiring the correcting interposition of the executive where it can be applied. Again, imprisonment for life is enjoined in all convictions of burglary, or feloniously breaking into or taking any goods or chattels from any dwelling house, any person being therein, and put in fear ; or of robbing any person in any place whatever. It is well known that these offences are in many instances merely technical, attended with no aggravated circumstances, and not worse in character or consequences than ordinary grand larcenies. For counterfeiting metallic money, the offender is doomed to the state prison for life ; for counterfeiting paper money, or in other words, bank notes, he may be sentenced for a shorter period. Several felonies are merely constructive, and do not require severe punishment, and yet no discrimination is made.

The canal commissioners have, in pursuance of the powers vested in them by law, authorized the employment of some convicts in operations connected with the western canal ; but the experiment has not answered any useful purpose. And as this

provision is not required by the public exigencies, and may have a tendency to disparage the exertions of honest and meritorious industry, I would recommend the repeal of the statute.

Having already occupied a considerable portion of your time, I shall no longer detain you from your important functions, but shall reserve for future communication some subjects that may merit your consideration. And whatever diversity of opinion may exist, I am persuaded that we will all co-operate with a sincere and entire devotion to our solemn and momentous duties, in cherishing a spirit of conciliation and forbearance, and in cultivating that respect which we owe to each other and to ourselves.

DE WITT CLINTON.

Albany, January 2, 1822.

JOSEPH C. YATES.

The Legislature met at the Capitol in the City of Albany, on the seventh day of January, one thousand eight hundred and twenty-three, when the Governor transmitted, by his Private Secretary, CHRISTOPHER Y. LANSING, Esq. the following

MESSAGE :

GENTLEMEN OF THE SENATE AND OF THE ASSEMBLY,

THE situation in which we are at present placed, is peculiarly interesting, and highly responsible ; and while addressing the first legislature convened under our new constitution, from a situation to which, by the favorable opinion of my fellow-citizens, I have been elected, and in obedience to the commands of that constitution, presenting and recommending for their consideration, some of the various subjects which will necessarily claim their attention, during this, their first session, I feel sensibly, such peculiar interest and high responsibility.

In the performance of the duties of my station, I am satisfied, that I shall receive every requisite aid and support from your united exertions for the public good ; and while we have this object only in view, whatever difference of opinion shall exist, relative to the adoption of means to promote the welfare of the people, by whom we have been selected as agents, and intrusted with power, I feel a confident expectation, that the judgment of charity will be extended towards each other, for the motives by which we are governed ; and I claim the kind indulgence of my fellow-citizens, for the errors which I shall unintentionally commit ; and while society must be governed by the limited capacity of human beings, subject to the conflicting temporal interests and frailties of human nature, errors will unavoidably occur, and even correct measures and conduct be pronounced erroneous.

Resting in the consciousness of a correctness of my motives, and relying on the support of a superintending Providence, I shall endeavor, to the utmost of my ability, to promote the welfare of the people, and the best interests of the state.

There has been only one period since the declaration of our independence, that the legislature of the state of New-York have been called upon to perform such high and responsible duties as at this session will devolve upon you ; and when we reflect upon the conduct of those who formed the first constitution of this state, and organized a government, every well ordered mind must be led with gratitude to bow before the throne of Grace, return-

ing fervent thanks to the God of heaven and of earth, who raised up for us, in that time of need, men eminently endowed with great intelligence, integrity, and superior, I had almost said inspired, views of the rights and liberties of man. The checks and balances of the old constitution of this state were admirable, when judged with reference to the time in which it was adopted; just emerging from a state of colonial dependence, and while desperately, and almost convulsively, struggling to break the fetters of trans-atlantic despotism: almost every man in the community, at that time, possessing high ideas of the necessity of a strong executive power, and great legislative independence; and although we have amended what we have deemed its errors, and what, in the present state of the community, were really such, yet the candid mind cannot but admire and applaud its great comparative excellence. I could not, gentlemen, withhold at this time, and on this occasion, the expression of my affection and veneration for those men, great in intellect and honesty, several of whom were personally known to many of us, who, having placed and seen their country in prosperity and the enjoyment of liberty, have gone to sleep with their fathers, until the great day of retribution.

This government has, by the late amendments, been adapted to the present feelings and views of the community, the only proper standard by which a good government can be formed; and no time for its re-organization could be more auspicious than the present. The peaceful state of the country, and absence of any asperity in party contentions, will enable you to obtain the benefit of each others' candid views of every measure; and although it is obvious, that in the enactment of laws, in compliance with the new provisions of the constitution and the re-organization of the government, many unexpected difficulties and embarrassments must unavoidably occur, yet by mutual forbearance, when you may differ in opinion, and by great attention and circumspection in the adoption of measures, these will vanish.

To you, as the first legislature assembled for the purpose of re-organizing this government, clothed with plenary powers to apply the provisions of that constitution, and limited only by its articles, the people look for wisdom, prudence and self-government, and I do not hesitate to indulge a confident expectation, that their hopes will not be disappointed.

The principal portion of your time and attention will probably be devoted to passing such laws as have become necessary, under the existing constitution. I have, therefore, thought it proper to confine myself to such prominent subjects of legislation as will probably, under such circumstances, be presented for your consideration.

Among the various and highly interesting subjects claiming your attention, the most important is the arrangement and organization of the judiciary. It is one that ought to be approached with great caution, but with full and competent decision: It must be acted up

with firmness, yet with the greatest discretion : its responsibility : the community fully retained, and its independence amply secured : so that no executive, legislative, or other influence can be brought to bear upon it in such a manner as to have a deleterious effect upon its deliberations or decisions. The division of its labors so made, that it is within the reasonable limit of human power to attend to its duties : that the execution of the laws may be enforced : justice extended to all, and denied to none ; its pecuniary support provided for, with such liberality that the most intelligent and best men may not feel as if they are doing themselves and their families injustice, by accepting the most responsible and highest public stations in the gift of the government. The supreme court, now to be composed of three judges, is to receive its most considerable aid in the discharge of certain of its duties, by the establishment and appointment of circuit judges, pursuant to such division of the state into judicial districts, as you may deem it advisable to make, and upon whom that important branch of our jurisprudence, the holding of courts of oyer and terminer, and nisi prius, will principally rest. Those judges may also, at the will of the legislature, be considered and made assistants to the chancellor. The powers given to them, and the duties they are required to perform, as specially stated in the constitution, with such as may be assigned to them by law, are of a character deeply interesting to the welfare of the state.

It will become your province to divide the state into districts, according to the fifth section of the fifth article of the constitution, and to invest them with such additional powers as you may deem proper, and may fall within the range of legislation.

An able, faithful, and impartial judiciary is not only the greatest ornament of the state, but the best security against tyranny and oppression. On its intelligence, firmness, and integrity, the lives, the property, and liberties of the people in a great measure depend. This state has never failed duly to appreciate its importance as blended with its prosperity and honor ; and while we are careful not to indulge in large and extravagant compensations to our public officers, it will not be denied that the independence of our judges is promoted in no small degree, by the permanency and adequacy of their salaries ; thus enabling them on the one hand to devote their whole time and attention to the discharge of their judicial duties, and on the other, to be above the reach of any temptations to neglect them. This consideration derives additional force from that part of the constitution which disqualifies them from accepting or being candidates, for any other office from the legislature or the people, during their continuance in their judicial stations. While on this subject, permit me also to remark, that legislative provision appears to be necessary with regard to the powers vested in the court of probates by the old constitution, and with regard to the manner of vesting them under the new, and of regulating appeals therefrom. Whether such regulations will render

provisions concerning the office of surrogate necessary, must be submitted to your wisdom and discretion.

It will be requisite to declare by law, the time and manner of electing militia officers, and of certifying their election to the executive.

The attention of the legislature has frequently been called to the important and interesting subject of regulating the militia; it has become more interesting because of the variety of opinions which always have and still do exist in relation to the necessity of attention to it. But I have always entertained the opinion, that it is not possible to maintain a government perfectly free, without a reliance on a militia, for defence against insurrections and sudden incursions, and for volunteer aid in the formation of armies, when we may be afflicted with war: and in order to accomplish these objects, unremitting attention ought always to be paid to the organization and discipline of the militia. I therefore recommend a full examination of our militia laws, to your consideration.

There are at present, a very considerable number of officers for whose appointment no constitutional provision exists, other than a general power delegated to the legislature, to regulate the manner of making such appointments, and to limit their duration. Among these are the office of surrogate, auctioneer, commissioner to take acknowledgments of deeds, justices in cities, and some others, not deemed necessary here to enumerate, but which will, doubtless, in the discharge of the duties imposed upon you by the constitution, receive their proper share of your labors and attention.

That part of the constitution which declares that the proceeds of all the public lands, with certain exceptions, belong to the school fund, and shall remain perpetually and exclusively appropriated to the support of common schools throughout the state, requires attention. The tracts thus set apart for that purpose, contain nearly one million of acres; most of these lands, however, remaining unproductive at this time, I submit to the legislature, whether the wise and patriotic intentions of the framers of our constitution, will be best promoted, by allowing them to remain in their present state, or to direct a sale of the whole, or a part, equal to a principal rendering an interest sufficient to make good the annual deficiency in the present school revenues. The subject of education is interesting to the happiness of every government and people, but more especially to a republic, having for its basis and permanency the intelligence and virtue of the people. To recommend it to your anxious care, is, I have not the least doubt, anticipating your intentions.

During the recent elections under the new constitution, difficulties have arisen at some of the polls with regard to the true construction to be given to the article which defines the right of suffrage.

The intention of the makers of the constitution ought to be re-

alized, and it is with you, as far as may fall within the scope of your constitutional powers, to pass explanatory laws, enabling the inspectors correctly to ascertain the citizens entitled to vote, and thus prevent improper exclusions by hasty and unadvised decisions during the election.

The right of suffrage is of the highest value to the citizen, as all our civil institutions, and the purity and correct administration of our laws, in a great measure depend upon its legitimate or constitutional exercise; any forced construction, therefore, whereby this right might be unjustly refused or usurped, ought to be guarded against by the enactment of laws conformably to the spirit and intention of the constitution.

The criminal code which has so frequently attracted the attention of the legislature, may still be considered in many respects susceptible of important improvements.

During the last autumn, whilst engaged in my official duties, as one of the justices of the supreme court, I visited the prison at Auburn, and from the representation of the inspectors of that prison, connected with actual observation, I am perfectly persuaded, that experience, there authorised by a late statute, has fully demonstrated that solitary confinement without labour, and where the prisoner is restricted in his diet, limiting such improvement in his education, according to the nature of the offence, presents the best means of reclaiming the offender; and according to the benign intentions of our penitentiary system, of fitting him for future usefulness, in case he should thereafter be restored to society. I commend this highly interesting subject to your serious and mature deliberation, in the hope that you will come to such results as will effectually insure the important object, intended by the introduction of this humane and valuable principle into our criminal code.

It gives me much pleasure to state, that the canal system, so wisely adopted and successfully pursued in the state, promises to realize the expectations of the community. The convenience already afforded to the inhabitants, by the facility with which the products of the country may be brought to market, has exceeded the most sanguine hopes of its warmest supporters.

From a general view of the state of the treasury, it appears that the receipts during the year ending the 30th November, 1822, were \$915,705 39, which, together with the sum remaining in the treasury on that day, amount to \$1,032,919 42. The payments during the same period, were \$924,094 89, leaving a balance in the treasury, of \$108,824 53, of which, however, only \$27,453 66, can be applied to the ordinary expenses of government; the residue being appropriated for specific purposes. The public debt on the 1st December, 1822, amounted to \$5,423,500, of which \$4,243,500 are for monies borrowed to complete the canal. Several specific sources of revenue, such as the duties on salt, sales at auction, the commutation for the tax on steam-boat pas-

sengers, and the canal tolls, are appropriated to the extinguishment of the canal loans and the interest thereof. It has not, as yet, been found necessary to resort to any other sources of revenue to meet the payment of the interest; the principal being irredeemable, by the terms of the loan, for several years.

The difficulties existing between this state and the state of New-Jersey, concerning our territorial and jurisdictional limits, still remain unadjusted; and it is very desirable that measures should be adopted to terminate a controversy between two sister states, which, in so great a degree, interrupts the harmony and intercourse that ought to exist between them. Whether the aid of the congress of the United States should be required in this delicate affair, or whether it is not more discreet and proper that a further attempt should be made at negotiation or compromise, in the appointment of commissioners, are subjects affecting the character and interest of the state, and must be submitted to your wisdom and discretion.

Before I conclude this communication, I submit to you the propriety of directing a revision of all the public statutes of the state. The adoption of the new constitution has rendered many of our statutes inapplicable to the existing state of things; and many others, particularly in our penal code, are distributed into so many volumes, though relating to the same subject, that references to the different laws are rendered extremely difficult. In a new revision, those difficulties might be removed, by condensing into one statute, each subject of legislation, and arranging them under proper heads, so that the people at large might clearly comprehend them; besides, much might be gained by omitting several obsolete statutes now appearing in our statute book. Various other improvements might be suggested, but they will readily occur to the legislature, should the subject receive a discussion. Whatever other matters are necessary to be submitted, will be communicated by special message.

Notwithstanding the commercial metropolis of this state has, during the summer, been visited by one of those afflicting dispensations of divine Providence, which not unfrequently prove the scourge of a dense population, yet we have reason to be thankful that the pestilence has been stayed, and health and business resumed their wonted influence in that city.

By a report or communication of the mayor of the city of New-York, to the common council, made on the 25th of November last, and by that officer recently transmitted to me, it is proposed to erect a public hospital for fever patients, at a convenient distance from the city, to prevent the spread of the disease; and to which it is confidently expected, persons will, without reluctance, suffer themselves to be removed, as the situation would be more healthy, and afford them pure air, good nurses, and the best medical advice and attendance. While an establishment of this sort would be of the greatest advantage to the metropolis, it would have the additional recommendation, that its doors would necessa-

rily be opened to receive non-resident patients who might unfortunately take the infection while in the city : and it being manifest that such a measure must essentially contribute to alleviate the distresses of a portion of our fellow creatures, if not prevent the ruinous consequences of the disorder to the city and country altogether, and thus in a precautionary as well as philanthropic point of view, promote the welfare and prosperity of both, their interests in that respect being mutual. It is submitted to your consideration whether some legislative assistance ought not to be afforded to encourage so humane and useful an undertaking.

I congratulate you also, fellow-citizens, upon the prosperous condition of our country. We have maintained peace with all nations ; our foreign relations have continued undisturbed, and the high reputation of our national government is still the theme of every patriot, and the admiration of the world.

The prosperity of our own state, in its agricultural, manufacturing, and commercial relations, and the many other blessings which by divine Providence we are permitted to enjoy, call for our most sincere aspirations of gratitude and praise : and while I shall earnestly pray for their continuance, I pledge myself to unite with you in every measure to preserve the honor, secure the rights, and perpetuate the freedom and happiness of our beloved country.

JOSEPH C. YATES

Albany, January 7. 1823.

On the sixth day of January, the Honorable John Jay, Chief Justice of the Court of Sessions, in the City of New York, transmitted to the Legislature, in the following manner, the following

Message.

GENTLEMEN OF THE SENATE AND ASSEMBLY :

AFTER a period of the most anxious and laborious attention to the arduous and mighty responsibilities which devolve upon the magistrate, in organizing the government upon the basis of the Constitution, it affords me the opportunity to announce to you the favorable dispositions of a representative body of the authorities constituted under the Constitution, and the

The Court of Sessions, and the Supreme Court, in the most important state tribunals, have been able to maintain the integrity of the legislature, and the most perfect order in a manner satisfactory to the public, and the courts of justice and the people.

throughout the different districts. The industry and ability manifested by the gentlemen who presided on those occasions, have given general satisfaction ; and experience has already evinced the utility, as well as necessity, of those courts, and has created a confidence, that the system as now established and conducted, will secure to the citizens a prompt and correct administration of civil and criminal justice ; an object of vital importance to the preservation of the liberties and the security of the property of a republican community. To prevent inconvenience and embarrassment in conducting criminal prosecutions, in the unavoidable absence of the public prosecutor, by sickness, or other sufficient cause, which in so extensive a territory, composed of a great number of counties, must frequently occur ; the courts of oyer and terminer have, on several occasions, been obliged to appoint persons to attend to the business on the part of the people, without provision by law to remunerate them for their services. Permit me, therefore, to suggest the propriety of authorising the court, in the absence of the district attorney, to appoint a substitute ; and on trials involving the life of the prisoner, an assistant, if deemed necessary ; whose services, in both cases, might be paid in the same manner with those of the district attorney ; the amount to be settled by the court, or the certificate of the presiding judge.

By the act limiting the number of justices of the peace in the several counties, not more than four are allowed in any town, leaving a discretion to the former council of appointment as to a smaller number. Such discretion could be exercised by the governor and council, without embarrassment ; because the power then rested with, and emanated from, a single source ; but according to the existing manner of appointment, the judges of the county courts, and the supervisors respectively, nominate, not exceeding four in any town ; and instances have recently occurred, of nominations in which they differed as to the number. The selection on the part of the governor, being confined by the constitution, to a disagreement in the persons nominated, no adjustment of this difference of opinion can take place ; and the town must consequently remain deprived of the same number of justices with other towns in the county. To prevent the like collisions in future, an amendment to the statute is recommended, making it imperative on both to nominate a specified number for every town in the county.

The act to regulate sales by public auction, ought also to be so amended, with regard to the appointment of auctioneers, as to remove all doubts in prosecutions for the penalty against persons selling without authority in violation of the provisions contained in it. The remarks submitted in a former communication, as to the situation of our statute book, are verified by daily experience. It is a fact, that many of our statutes are rendered inapplicable to the existing state of things under the constitution recently adopted ; and principles contained in different statutes applicable to the same subject, are distributed in so many volumes, as to make an investi-

tion difficult, and extremely laborious ; almost without the reach of the citizen, unless he is a professional character. It is therefore submitted to your consideration, whether a revision of the laws at this time, has not become indispensably necessary.

To effect material and radical alterations in the constitution and government of a country, advantageous to the great mass of the community, without molestation from abroad, or commotion at home, gives a character of stability and energy to free institutions, not known to the world, until exemplified by the people of the United States of America. The citizens of the southern part of this continent, are now engaged in an arduous conflict with the mother country, to effect the same purpose ; and although their transatlantic brethren have been subdued by the arm of power, and have been prevented from establishing a government according to the choice of the Spanish nation, by the despotic measures of foreign authority, it is evident that the South American patriots will not be deterred from persevering, until an effectual emancipation shall have been attained, by the establishment of a government according to the will of the people ; and we have reason to believe, consonant to the liberal principles of free republican institutions.

Notwithstanding the interested feelings necessarily existing amongst our citizens with regard to the destinies of the inhabitants of this continent in particular, still it is impossible for the bosoms of freemen to be exempted from the most lively emotions in favor of the cause in which the Greeks are engaged. A nation, persecuted and depressed for centuries past, struggling to shake off the unhallowed fetters of despotism, to regain their independent national rights, must create feelings of sympathy favorable to their cause ; and it affords the greatest satisfaction to observe, for the honor of the American citizens, that a deep interest in favor of their success, pervades the community, not confined to sensations of sympathy alone, but evincing by meetings publicly announced, a decided determination to render them assistance in their present perilous situation, in a manner the most inoffensive and unexceptionable in a national point of view,—conduct so laudable and disinterested, as friends of the human family, cannot fail to meet the approbation and applause of the civilized world.

The Militia law of the last session, has introduced a system requiring labor and attention, beyond what could have been anticipated by the legislature, or more ample provision would undoubtedly have been made to organize under it. The duties of the adjutant-general have incessantly occupied his exclusive attention since the close of the last session ; so that, with the assistance rendered in my office, where the papers are now kept on regular file, he has been enabled to perform those duties without delay or disappointments in any one, unless rendered unavoidable for the want of proper documents. it is not deemed necessary at present, to enter into a minute detail of the business of that office. When the subject is brought up before you, it will of course be inquired into. It is

sufficient on this occasion to state, that vacancies and elections constantly produce returns, with various questions to be submitted for the decision of the commander in chief, and a continued and extensive correspondence is kept up with almost every part of the state, on subjects necessarily arising out of the nature of the establishment. It is, therefore, suggested, whether a department so intimately connected with the welfare and safety of a representative government, ought not to be provided with means to conduct it commensurate with its importance. Assistants, or clerks, and a room for an office, to which citizens can resort to transact their business, and in which the numerous public documents connected with the department might at all times be found, it seems to me, has become necessary.

The operation of the system lately adopted, of electing militia officers, cannot at this early period be ascertained; but from the beneficial effects produced in a neighboring state, where a similar system prevails, we have reason to expect it will eventually prove advantageous. The greatest care and attention has not been wanting to enforce a strict compliance with the directions of the statute, to prevent appeals as far as possible, not in some instances, however, to be avoided; nor is it extraordinary that it should be so on the first introduction of a system where the accustomed practice of being governed in promotions by rank or seniority is frequently disregarded by the electors, and where the irritation excited by being thus overlooked, oftentimes has originated appeals founded on unimportant deviations from the rules and regulations established, and the directions contained in the militia law; occurrences only to be rendered less frequent in the exercise or more enlarged and liberal views by the parties interested, which future experience will necessarily introduce and inculcate. Several useful amendments to the existing law might be suggested; but as the subject, in all its branches, has recently been recommended to congress, (the paramount authority,) it is thought most discreet and proper, in order to prevent future collision, to recommend the postponement of all amendments not exclusively within the province of the state legislatures, until the result of their deliberations shall be known.

From a representation made by the commissary-general, it appears that in the month of December last, there have been received into the arsenals, from the general government, six thousand nine hundred and ninety-five stand of best quality muskets, being the balance due the state for its quota of arms, under the act of congress of April, eighteen hundred and eight, for arming the militia, and that on an application made to the war department at Washington, to deliver pieces of field artillery in lieu of a portion of those arms, it appeared they had none on hand of suitable size for field service which could be spared. The commissary-general's department consequently remains deficient in upwards of fifty pieces of field ordnance, necessary for the equipment of

companies of artillery, already organized. The propriety of making an appropriation is therefore suggested, for the purpose of mounting and equipping a sufficient number of pieces of artillery for the militia service.

The state prisons, at New-York, and at Auburn, have both been visited by me, since the adjournment of the legislature, and, on the strictest inquiry and examination, I was pleased to find that the gentlemen under whose care and superintendence they are respectively conducted, by their judicious arrangements, as it respects the internal government of those institutions, have evidently manifested an earnest desire to secure the salutary purposes for which the penitentiary system has been introduced. After duly receiving the return from the agent of the state prison at Auburn, according to the directions given to him by the ninth section of the act of the last session for the support and improvement of state prisons, &c. containing a particular statement of the duration, severity and extent, of the solitary confinement of each prisoner, I have thought proper to pardon a number of the convicts, so confined, to prevent an undue increase of their punishment, in consequence of a classification, which had been made, under the act of the second of April, eighteen hundred and twenty-one, and in pursuance of which, a number of prisoners had been confined in the solitary cells. In virtue of the fifth section of the act, making appropriations for the support of state prisons, passed the seventeenth of April, one thousand eight hundred and twenty-two, I have directed thirty convicts to be removed from the New-York prison to Auburn, where the accommodations will enable the persons having the charge of that institution, to comply with the terms of their sentences: a measure which had become indispensable, to relieve the New-York prison, for the want of solitary cells, and on account of the number there confined.

By a concurrent resolution of both houses of the legislature, at their last session, the executive of this state was requested to communicate with the president of the United States, in relation to the unjust operation to the interest and prosperity of a large portion of the citizens of this state, by the enforcement of the act of the parliament of Great Britain, passed the fifth of August, one thousand eight hundred and twenty-two, regulating the commercial intercourse of the United States with the Canadas. A letter has accordingly been addressed by me to the president, on the subject contained in those resolutions. By his late message to the congress of the United States, it appears that the subject has been taken up by the general government, and that a negotiation has been opened with the British nation, embracing the just claim of the citizens of the United States, inhabiting the territories bordering on the lakes and rivers which empty into the St. Lawrence, to the navigation of that river to the ocean, which it is to be hoped will terminate in the removal of the existing restrictions and impositions, to which the citizens, residing in the western and northern parts of this state are subjected.

The agriculture of the state, is rapidly progressing, in advantageous and substantial improvements ; and, it is to be regretted, that the manufacturing interests, so essentially connected with it, the soil producing many of the raw materials, is not in the same progressive state.

To ensure the permanent independence and substantial interest of a nation, proper and energetic measures ought not to be neglected by its government, to prevent, as far as practicable, a dependence on foreign supplies for articles of domestic consumption. During the late war with Great Britain, manufacturing establishments of various descriptions, for fabrics since imported to an alarming extent, were in successful operation, sufficiently so to test our ability and capacity to supply the necessities of the country, but, for the want of due encouragement, by counteracting duties, to prevent the destruction of those manufactories, as well as to avoid an alarming foreign indebtedness on the part of our citizens, some of them have ceased to exist, but others have been continued, by the unwearied perseverance and enterprize of meritorious citizens, whose confidence in the fostering care of government, eventually, to sustain them, could not be shaken ; and I trust that the period has at length arrived, when an almost united and general opinion, favorable to their support, by discreet and competent encouragement, pervades the community ; and which, it is confidently hoped and expected, will not be disregarded by the constituted authorities of the country.

During the last year, the Champlain canal has been rendered navigable to the Hudson river, at the city of Albany, and the completion of the Erie canal, the ensuing season or the summer following, is rendered morally certain, so that the period is not distant, when we shall fully experience the benefits and important advantages secured to our citizens, by this unexampled improvement. A more propitious era, connected with the growth and prosperity of our country, cannot well be imagined ; and in taking a retrospective view of the enterprize and patriotism of our predecessors, it is difficult to suppress the most endearing emotions of respect and gratitude, for the memory of those with whom this vastly important and useful project of connecting the western and northern lakes with the waters of the Hudson, first originated. On examining our statute book, we find as early as seventeen hundred and ninety two, within nine years after our revolutionary struggle, and whilst the western and northern parts of the state were a perfect wilderness, a legislature composed almost exclusively of those who had contributed towards achieving our independence, and whose zeal and devotion for their country's good, it seems did not cease with that memorable event, passing a law incorporating two inland navigation companies, one for the western and another for the northern part of the state, both of which commenced their operations and expended large sums of money. The northern company soon desisted, but the western continued

their exertions, although comparatively circumscribed, on account of the situation of the country, and the source from whence their funds were derived. But those incipient measures introduced further inquiry and investigation, and after a great portion of the western and northern parts of the state became enlightened on the subject claimed and received the attention of many of its enterprising citizens; who caused examinations and surveys to be made, which resulted in a conviction that the undertaking was extensive, and probably, not within the reach of private capital. That this great work could be accomplished only by the state. This opinion continued to gain ground, until it became known that a large and respectable portion of the citizens were in favor of it; and the proper period to forward the views and intentions of its friends and supporters, soon arrived. Measures were accordingly adopted, to proceed the most effectually, in the prosecution of the work, and after extinguishing the existing charter of the western inland navigation company, those measures were persevered in, by the people of this state, with ardor and uncommon unanimity; abundantly evinced by the united and uniform support of their representatives, in voting annual appropriations of sums of money, unusual in amount to be granted within so short a period for the like purpose, by the government of other countries, possessed of much greater and more extensive resources.

The Champlain canal having been finished, and the line of it being in operation for upwards of two months, and the report made to you, whether independent of procuring the necessary funds, to enable the commissioners to finish the western canal, the extensive interposition has not become necessary, in consequence of the extensive concerns connected with the operation of the canal, so far as it has progressed; and to expedite the settlement of the claims for damages of meritorious citizens, who have been subjected to privations arising out of the necessity of the canal for public good: but from whom a just and liberal compensation ought no longer to be withheld.

The navigation of the Hudson since the completion of the canal, has assumed an importance highly important to the welfare of this state. The same subject has been introduced to the legislature, and commissioners have been appointed, by law passed for the purpose, to report on the state of the navigation of the river. Their report has been presented, and appears on the journals. Both the report and the report of the respective expenses, are given in the report of the commissioners of the river, and the other report of the commissioners of the canal, but canalizing is recommended as the best mode of improving the river, should be judged that the present mode of navigation is of sufficient magnitude to make it necessary to improve it. It is further stated, that an extraordinary amount of business has been done in the execution, that the work has been done in a very short time, and that it was much more than expected before it was commenced.

mates, emanating from so respectable a source, cannot be questioned ; and the amount of the expenses stated, ought not to be put in competition with the positive advantages to be secured by it to the country. The vast amount of property produced by the soil and by the industry of the western and northern citizens of this state, to be benefitted by sales at a market for direct exportation, can readily be anticipated. If congress, therefore, would authorize a small tonnage duty on vessels passing through the contemplated canal, to be exacted by this state until the debt created to complete it, shall be paid off, and suffer such duty to be continued in aid of the funds set apart for the payment of the canal debt, until the final extinguishment of that debt, it would be an object mutually beneficial to the state and to the general government ; as no reasonable doubt can be entertained but that the arrangement would in a short time eventuate, in a removal of the duties on salt, and in such a diminution of toll as would require a sum, sufficient only to defray the repairs and other expenses, incident to the use of the canal ; while congress at the same time would obtain an additional port of entry of considerable importance, and an extensively useful national improvement without immediately resorting to the public funds for its accomplishment. If it should be deemed expedient, to adopt the plan of a lateral ship canal, for the improvement of the navigation as suggested in the report alluded to, a law might be passed authorising the prosecution of the work, upon condition that the assent of congress to the collection of such tonnage duties, as are specified in the act, should first be obtained by the commissioners named in it, to conduct the construction of the canal.

The growing importance of the New-York harbor, not only to the state at large, but as an arm of the sea, to the United States, claims the care and attention of the legislature ; the extension of improvements into the East river, under grants by the corporation on the Long Island shore, and the opposite side, is represented as assuming an alarming aspect, by contracting the navigation of the river, and consequently increasing the rapidity of the tide, which if continued must eventually render the anchorage dangerous and insecure, although hitherto considered the safest harbor around the island. The propriety is therefore suggested of appointing an intelligent and respectable person as a commissioner to ascertain and prescribe the extent beyond which, no encroachments in future shall be permitted ; and to which, grants for the right of soil shall hereafter be limited ; or of adopting such other measures as you may deem expedient, more effectually to avoid and prevent consequences so highly detrimental to the community.

The situation of the treasury is not materially changed from what it was the last year, excepting the increase of the public debt, occasioned by further canal loans. It appears that the receipts, during the year ending the thirteenth of November, one thousand eight hundred and twenty-three, were one million one

hundred and thirty two thousand four hundred and eighty-four dollars and eighty-six cents ; that there has been paid out, during the same year, one million one hundred and four thousand nine hundred and sixty-four dollars and forty-four cents, leaving a balance in the treasury of one hundred and thirty-six thousand three hundred and forty-four dollars and ninety-five cents, to which is to be added sundry sums, deposited in the bank of the Manhattan Company, not yet charged to the treasurer, for want of certificates amounting to seven thousand five hundred and thirty-five dollars and twenty-nine cents, making an aggregate balance of one hundred and forty-three thousand eight hundred and eighty dollars and twenty-four cents, from which must be deducted appropriations for specific purposes, amounting to one hundred and eighteen thousand five hundred and five dollars and seventy-nine cents, and the further sum of eighteen thousand one hundred and seventy-one dollars, for notes of insolvent banks remaining in the treasury, which leaves a balance, on the thirtieth day of November, one thousand eight hundred and twenty-three, of seven thousand two hundred and three dollars and forty-five cents, for the ordinary expenses of government.

The public debt, on the first of December, one thousand eight hundred and twenty-three, amounted to six million eight hundred and ninety-five thousand five hundred dollars, of which, five million eight hundred and forty-three thousand five hundred dollars, are for monies borrowed to complete the canal. The sources of revenue appropriated to extinguish the canal loans, continue sufficient to meet the payment of the interest, without resorting to any other fund. It is, however, to be observed, that the repairs of the canal, as yet, have been paid out of the principal sums loaned ; but, after the whole work is completed, so that the amount of the incidental expenses of the canals may be ascertained and deducted from the amount of toll during the season, a more accurate estimate will be formed of the actual avails of that fund.

Since the law of the last session, in relation to the salt springs in the county of Onondaga, has been in operation, it is encouraging to find, that the character of the salt manufactured there, has not only been restored, but it has been sufficiently improved, to remove, in a great degree, former prejudices against the use of it. A source of revenue so valuable, I have no doubt will continue to receive the superintending care of the legislature. To preserve the purity of the salt, and secure the confidence of the community, in the general use of it, is an object of too much importance to be neglected, and so essentially connected with the fiscal concerns of the state, that it should be regarded as a subject, at all times, deserving the highest consideration and attention.

The choice of electors of president and vice president, has excited much animadversion throughout the nation ; and it is to be regretted, that a uniform rule on this subject is not prescribed by the constitution of the United States. It is manifest, that the

manner of electing may have an essential effect on the power and influence of a state, with regard to the presidential question, by either dividing the votes, or enabling the state with greater certainty to give an united vote ; and until a uniform rule is ingrafted in the constitution of the United States, the manner of electing will continue to fluctuate ; and no alteration made by any one state, will produce a material change in the various modes now existing throughout the union. In some states the people will vote by a general ticket ; in some by districts, and in others by the legislature ; and no practical remedy probably does exist, competent to remove the evil effectually, except by an amendment to the national constitution.

Although this state has heretofore sanctioned an attempt to accomplish that important object, which proved unsuccessful, the measure, on that account, should not be abandoned ; and as the subject has recently been brought before congress, it is to be expected, that another opportunity will shortly be presented, for the legislature of this state to sanction an amendment, not only establishing an uniform rule in the choice of electors, but also securing the desirable object of directing such choice to be made by the people. A more propitious period, evincing its propriety, and consequently affording a more favorable prospect of obtaining a constitutional number of the states to assent to it, I am inclined to think, has not presented itself, since the organization of the government.

Persuaded, that you, as the representatives of a free people, will only be influenced by reason and true patriotism, it is submitted to your wisdom and discretion, whether under existing circumstances, the present manner of choosing electors, ought, at this time, to be changed.

The executive of the state of Tennessee, has forwarded to me a copy of a preamble, and of certain resolutions adopted by the general assembly of that state, with a request to lay them before the legislature of this state. The same are accordingly transmitted.

At the January term of the general session of the peace of St. Lawrence county, of the last year, William Kirby was indicted for the murder of John Huges, aged four years ; and also for the murder of Frances Kirby, his daughter, aged two years ; and at a court of oyer and terminer, held in September last, in that county, he was tried and convicted upon the indictment for the murder of John Huges, and sentenced to be executed on the sixth of November following. From the representation of the judge who presided at his trial, and the district attorney who prosecuted on the part of the people, and on an examination of the testimony transmitted to me by the latter gentleman, facts are presented sufficient to induce a belief that the prisoner was insane when he committed the alleged murder. I have, therefore, deemed it my duty to postpone his execution until the second day of April next,

in order to annex the condition to his pardon, of imprisonment in the state prison during his natural life, under a full conviction that it would be dangerous and unsafe to the community to suffer him to go at large. But as the inspectors of the state prison were not authorised to receive him without a law for the purpose, I have thought proper to represent his case to the legislature, so that necessary measures might be adopted to enable the officers of either of the state prisons to receive and retain him, according to the contemplated condition upon which he may be pardoned.

The literary institutions of the state, are in a highly respectable and flourishing condition, and there is reason to believe, that their extensive usefulness will prove an ample remuneration for the support and patronage received from the legislature.

It is a subject of great felicitation, to observe so general a sentiment prevailing in the state, in favor of the dissimination of useful knowledge. The advantages afforded, in the establishment of common schools, have been embraced in almost every part of the state, and, independent of many charitable institutions, meritorious citizens have, in many places, extended their benevolence to the children of indigent parents, by the means of Sunday schools; and the adoption of those humane and truly laudable measures, have induced numbers to exchange their accustomed habits of indolence and dissipation on that day, for the more profitable pursuit of obtaining a common education. The prevalence of such enlightened sentiments, and generous feelings, will essentially contribute to secure to the public, the benefits of the talents of many useful and virtuous members of society, otherwise allowed to remain in obscurity, and will have a direct tendency to afford permanent and substantial advantages to a government, where the sovereignty rests altogether with the people.

JOSEPH C. YATES.

Albany, January 6, 1821.

Pursuant to Proclamation, the Legislature met on the second day of August, one thousand eight hundred and twenty-four, and on the same day the Governor transmitted, by his Private Secretary, CHRISTOPHER Y. LANSING, Esquire, this

MESSAGE :

GENTLEMEN OF THE SENATE AND OF THE ASSEMBLY,

IN the constitutional exercise of a power delegated the executive, I considered it a duty to convene the legislature for the purpose of submitting to them a subject of vital importance to the community.

A copy of the proclamation, under which you are called, accompanies this message, containing a brief summary of the causes which induced me to adopt the measure ; and it is submitted to the legislature, under a full conviction, that in convening them, I have performed a duty required of me by the responsible situation in which I was placed, and by the strong and very decided sentiments of the people of this state : And confiding in the calm and dispassionate consideration, which a wise and patriotic legislature will bestow upon the matters thus submitted, I cheerfully repose myself upon the intelligence and virtue of the people and their representatives, fully aware of the responsibility I have assumed, and, be assured, gentlemen, wholly indifferent to personal consequences, when performing a sacred and impressive duty to the state.

There are certain fundamental truths in the theory and practice of our government, which cannot be altered or obscured by the passions of man, and which, certainly, ought not to bend to their interest or convenience. By one of them is inculcated a principle, in the support of which our forefathers fought and bled, and which can never be lost sight of without the loss of our rights and independence. It is, that the people alone are the true and legitimate source of all power.

The framers of our new constitution, fully aware of this, were determined to secure to themselves, and to posterity, the blessings of freedom, by most sedulously guarding every avenue to corruption and intrigue, by the enlargement of the right of suffrage, the permanency and independence of our judiciary, and the dependence of the executive and legislative branches of our state upon the will and pleasure of their constituents ; and by thus balancing the different powers and parts of the constitution, vigor and safety to the whole, were communicated and secured. A frequent recurrence, therefore, to first principles, however familiar, is, in times of difficulty and danger, the most certain safeguard of our freedom.

If, then, as our bill of rights declares, “ no authority shall, on

any pretence, be exercised over the citizens of the state, but such as shall be derived from, and granted by the people of the state," how interesting to us all, as citizens our duty is good citizens and faithful officers, by a strict and unflinching adherence to the public will, when clearly ascertained and fully expressed. Regardless of the conflicts of passion, the temptments of unaccounted ambition, and the pernicious influence of intrigue and faction, we should persevere to the exercise of those acts, which will secure to us the approbation of our own consciences, and the approving voice of impartial posterity.

You will perceive from the proclamation by which you are convened, that the subject in relation to which you are called, has reference to a very interesting part of our government. The choice of Electors of President and Vice-President of the United States.

When we look at the constitution of the general government, and consider the exposition which a vast majority of the union have given to that part of it which relates to this important subject, we cannot entertain a reasonable doubt that the spirit and good sense of that instrument, is best consulted by going to the people the choice of those electors. In no less than nineteen states out of the twenty-four, the electors are chosen by the people; and it is rendered highly probable from recent events, that Vermont will be added to the number. A principle, then, so congenial with the feelings of the people, so deeply imbedded in the very form and structure of our government, and so permanently adapted to the safe and legitimate exercise of the right of suffrage secured to us by our state constitution, can never be at war with the honor, peace, or safety, of our country. Adverting to this principle in the message I had the honor to send you in January last, I expressed my full conviction, that it was "a desirable object of *exercising your choice* to be made by the people;" and I am free to acknowledge, that I considered it also important that it should be uniform throughout the union, and that any interference by the legislature, while the subject was before congress, would be premature—that reason, however, by the recent adjournment of that body, has ceased to exist.

Although the number of states in which the legislature make the choice of electors is small, yet I knew of no state in which the object alluded to could be attained throughout the union, but by the intervention of congress, or by the legislation of a constitutional majority of the states; and I did entertain the belief that the incipient step would be taken by congress, and that when taken, it would furnish a basis for the legislature of this state to act upon in passing a law.

In this point of view, I did not consider the ultimate success of any proposed amendment throughout the United States, immediately material or important; as I was persuaded, that any amendment proposed by congress would at all times be treated with deference and respect, and might have been adopted in principle by

this state in season for the approaching election of president and vice-president of the United States. I was confirmed in the view thus taken of the subject, by the elaborate report of the committee of the senate of this state, which, whilst it recommended to that body not to pass a law giving the people the right to choose the electors, stated, among other reasons, for its recommendation, that it ought not to pass, until at least the efforts making in congress to amend the constitution of the United States were adopted or rejected.

It is true, that the senate of the United States had indefinitely postponed the subject before the adjournment of the legislature in April last; but still it remained undisposed of in the house of representatives, and might have been called up and reconsidered in the senate.

It was also known, that it was intended by those friendly to the measure, to bring forward the consideration of the same subject in the house of representatives, after the senate of the United States had indefinitely postponed it; and that this was alone prevented by the many other important topics, which pressed upon the immediate attention of the national legislature, until at length it adjourned without performing an act to which the nation had looked with deep solicitude and interest.

Thus, the hopes of the senate of this state, and of its house of assembly, were disappointed; and nothing remained in this extraordinary crisis, but to exert that power, which the constitution of the state, for the benefit of the people thereof, had delegated to its executive; or quietly to suffer the wishes and expectations of the people, and of their legislature to be frustrated.

Permit me, briefly, to allude to the calm and deliberate review which I took of this subject at the time of the adjournment of congress.

Very soon after the commencement of the session in January last, a bill was introduced into the house of assembly, in accordance with the prevailing sentiments and wishes of the people; and notwithstanding much discussion upon the provisions of the bill, very little opposition was expressed to its general principle.

The bill passed the assembly with uncommon unanimity, only four members voting against it. It was then sent to the senate, and the committee to whom it was referred made a report, to which I have already alluded. A majority of the senate thereupon solemnly declared, that it was expedient to pass a law at the then session of the legislature, giving to the people of this state the choice of electors of president and vice-president of the United States, and by a general ticket. Its almost immediate and simultaneous postponement by the senate till November next, may have been produced by the fact, among others, that as congress was still in session, it would be proper to learn the sense of that body before the bill was finally disposed of.

If this, or some other reason equally well founded, did not exist, it would be viewed by the community as a singular phenomenon, that a measure, grounded on a general principle, concurred in by the two branches of the legislature, should in the end be defeated; on the contrary, I was bound to notice the declaration made by the senate and assembly, and to believe that those honorable branches of our government were willing and desirous of giving to the people the right of choosing the electors.

If these circumstances grew out of the fact, that the senate of this state had postponed the subject, in the hope that congress might still interfere, by recommending an amendment, then, as soon as congress adjourned, without doing so, it became my duty to convene the legislature at an earlier period than the day fixed by law, and to which they stood adjourned, to afford them an opportunity of passing the bill so anxiously required and expected by the community at large.

It became a duty, from the many extraordinary circumstances connected with the measure, from the constantly increasing solicitude of the people, in its favor, and from a due regard to the honor of the state.

If, under such peculiar circumstances, I had hesitated to pay a just deference to public sentiment, and legislative declarations, it would have subjected me to the merited reproaches of a free and enlightened people. Having thus performed what, in the view taken of this highly important subject, I considered an incumbent duty on my part, it now remains with you, gentlemen, to adopt such a course, with regard to the choice of electors, as you, in your wisdom, may think most consonant with the wishes and expectations of your constituents; and in recommending the passage of a law giving it to the people; it is also satisfactory to me to reflect, that its adoption will occasion no additional expense to the state, as the necessity otherwise of your again meeting in the month of November next will be thereby obviated and removed.

Should the legislature be engaged in any other business than the immediate purpose for which it is now called, or in the unfinished business of its last meeting, I would then recommend the propriety of investigating another subject, which I consider as connected with the safety of our citizens, and the prosperity of our state.

The deep interest which is so justly felt in our steam boat navigation, and the fatal accidents which have recently attended the operation of its machinery, in several instances, indicate the necessity of an early inquiry into the causes of those misfortunes, and of adopting regulations, by law, for inspecting, at stated intervals, or for otherwise ascertaining the condition and safety of the apparatus used in such navigation, to avoid, in future, as far as practicable, the awful consequences arising from mismanagement, or carelessness.

I cannot forbear, at this extra session of the legislature, to mention the anticipations so fondly cherished by the American people, that the only surviving general officer of the revolution, the friend and companion of Washington, and who has been so conspicuous for his disinterested patriotism and devotedness to the liberties of man, is expected shortly to visit our country. With the name of Fayette, are associated the most tender and interesting recollections; and that country, whose independence and freedom he so essentially contributed to establish, can never be indifferent to his welfare, nor be wanting in the hospitalities due to its noble benefactor. I doubt not, gentlemen, that you will adopt such measures for receiving this distinguished patriot, at the seat of government, should he visit this city, as will do honor to a grateful people.

JOSEPH C. YATES.

Albany, August 2, 1824.

DE WITT CLINTON.

The Governor, by his Private Secretary, CHARLES A. CLINTON, Esq. transmitted to the Legislature, on the fourth day of January, one thousand eight hundred and twenty-five, the following

MESSAGE :

FELLOW-CITIZENS OF THE SENATE AND OF THE ASSEMBLY,

OUR devout thanks are due to Almighty God, for the signal blessings conferred on our country. The wise policy pursued by the national government, in cherishing our resources, in diminishing our debt, and in cultivating peace with all the world, has elevated our character abroad and confirmed our prosperity at home. It is gratifying to perceive, that the greatest maritime power in Europe, with which we are closely connected, by commerce and communication, has adopted a similar pacific policy ; and that the unhallowed conspiracies in the old world, against the liberties of mankind, can find no means of support and aggression on this side of the Atlantic.

Nor has our national government, while cherishing peace, been unmindful of the exigencies of war. A comprehensive and valuable system of coast defence has been digested, and is in a train of successful developement. Fortifications, in the most vulnerable points, have been erected. The war department has undergone a thorough and comprehensive re-organization, adapted at once to the economy of a peace, and the expansive requirements of a war establishment. Ordnance, arms, and other munitions, have been provided ; and a system adopted of steady and progressive accumulation. An institution for military education, under the superintendence of scientific and talented men, is in a flourishing condition ; and our youth are not only instructed in war, but acquire that information which renders them useful in cultivating the arts of peace. Our navy, at once the glory and the palladium of our country, is in a state of prosperous augmentation ; and our gallant and hardy seamen, are increasing their nautical skill, protecting our commerce, and maintaining the honor of our flag in every sea.

These views naturally spring from contemplating the situation of our country and of Europe ; and on the present occasion, are exhibited in obedience to that mandate of the constitution, which requires from the executive periodical information of the condition of the community. As a member of the confederacy, we have n

vital interest in the prosperity of the whole, and necessarily participate in the common lot.

But when we look nearer home, and examine the condition of this state, without reference to its federal relations, we have equal reason for gratitude to the dispenser of all good. Our elementary schools, and our literary institutions, are prosperous beyond all former experience: the lights of religion and knowledge have increased: agriculture, commerce, manufactures, navigation and the useful arts, are in a state of unprecedented activity and successful development. The excitements and animosities which have hitherto rent us asunder, degraded our character, and impaired our ability for doing good, are yielding to a spirit of moderation and conciliation: And it is to be hoped, that in future, the great subject of competition, and the great prize of ambition, will be confined to a distinguished career of public spirit, unalloyed by the debasing influence of faction, which, in seeking its own gratification, by the elevation of a part, generally overlooks the prosperity of the whole. Our civil and political institutions are derived from the wisdom, and exist in the will of the people, the source of all rightful authority, and of all legitimate sovereignty. Conceiving it to be the sacred duty of public servants, entrusted with power and authority by the people, to consult the wishes, as well as the interests of their constituents, it is my earnest desire, and shall be my favorite object, to recommend that course, and to pursue that policy, which may prove the most gratifying to the community, and the most auspicious to the great interests of the state. And in selecting persons for offices of power, trust, and emolument, it will be my aim to look for capacity, integrity, patriotic zeal, and public services. The times are auspicious to the healing of those dissensions which have so long interfered with our general happiness, and so greatly diminished the just consideration of the state in the councils of the nation. As far as in my power, I shall be happy to embrace this auspicious occasion, and make every proper effort to promote internal peace and tranquility. Having been elected to office, not by a party, but by the people, it is my ardent wish to cast myself upon their candour and judgment, to meet their scrutiny, to consult their will, and to promote their happiness. And I shall always be solicitous to cultivate a good understanding with the co-ordinate authorities, and to produce an harmonious union of effort, for the public good. To establish a just responsibility in the executive, as has been done in the legislative department, it appears to me, that provision ought to be made for the publication of the journals of the senate, in relation to their executive functions. The people ought, in all cases, to know the official acts of their agents; and as the appointing power is at all times an important trust, and liable to great abuse, there ought to be no veil drawn over its exercise; but the nominations of the governor, and the vote of each senator, on the ac-

ceptance or rejection of such nominations, should be distinctly understood by the people.

In 1820, while administering the government, I solicited the attention of the legislature to the importance of passing a law, by which the people could exercise their suffrages in the choice of electors of president and vice president of the United States. The whole body of events connected with this subject, speaks an admonitory language, and demonstrates that the enactment of such a law is anxiously desired by the people, and that it is enjoined by a just regard for their rights, and by the dictates of true policy. Whenever the people can enjoy the direct exercise of power themselves, no intermediate body should be interposed; and an unnecessary resort to delegated authority too frequently leads to an abuse of power, a prostration of principle, and a total disregard of the public will. It is sincerely to be desired that the constitution of the United States could be so altered, as to provide for an uniform mode of choosing electors throughout the union. In such case the system by districts would no doubt be most judicious. But while the mode is not uniform, sound policy seems to require that the choice should be left to the people by a general ticket, and in the most simple and popular shape. When the right of suffrage is generally diffused, and those who exercise the elective franchise, vote by a general ticket, and the greatest or highest number constitutes an election, power is brought to the people in the most gratifying and unexceptionable manner. Ever since the political existence of this state, all our elections have been conducted on the principle of the highest number of votes: in the whole state, for governor and lieutenant governor; in districts, for senators and representatives in congress; in counties for members of assembly, and now for sheriffs and clerks; and in towns, for supervisors, assessors, clerks, collectors and constables, and no inconvenience has resulted. I, therefore, earnestly and respectfully recommend the passing a law, committing the choice of electors to the people by a general ticket, and by the greatest number of votes, as a proceeding required by the sovereign authority of the state, and by every consideration which ought to govern the conduct of its legislature. The statute recently passed, submitting the mode of choice to the sense of the community at the next annual election, does not interfere essentially with this measure; and if it did, it ought not to retard or prevent its immediate consummation. The voice of the people on this subject, has been audibly expressed; and it was certainly a work of supererogation to resort to this process, the tendency of which will be to perplex a question sufficiently plain and universally understood, to postpone a due atonement to the violated majesty of the people, and to exclude you from the merit of performing this great duty.

In attending to the election of the chief magistrate of the nation, let us not overlook subjects of subordinate consideration, but

certainly of great consequence to the welfare and good order of society.

By the constitution, a complex mode of choosing justices of the peace, through the instrumentality of the supervisors of towns, and judges of the county courts, is established. As this system has been found inexpedient in its operation, and exceptionable in all its important bearings, I recommend such an alteration, through the forms of the constitution, as shall bring the choice of those magistrates directly home to the people, in their primary assemblies. They are certainly much better judges of the claims and qualifications of their local magistrates, than persons at a distance, and they have stronger inducements to make good selections. It is also submitted to your consideration, whether it would not render the minor courts more respectable, and promote good order, if the respective towns were authorised in their discretion, to provide buildings for their sittings.

As connected generally with these important topics, permit me to request your attention to a more accurate definition, a more liberal extension, and more secure enjoyment of the elective franchise. Without the right of suffrage liberty cannot exist. It is the vital principle of representative government, and it ought therefore to be effectually fortified against accident, design, or corruption. The qualifications prescribed by the constitution for the exercise of the elective franchise, are full age, citizenship, residence for a designated time, payment of an assessed tax to the state or county or exemption from taxation, or a performance of militia duty within the year, armed or equipped according to law, or assessment within the year to labor upon the public highways, and performance of the labor, or payment of an equivalent. This arrangement excludes a great body of citizens from the elective franchise; and a few simple illustrations will shew its complexity, and its liability to fraud and injustice. In 1818, the state tax was two mills on the dollar; since that time, it has been reduced to half a mill on the dollar; and in a short period there will probably be no necessity for any general tax. If this should be the case, and the finances of all or any of the counties be equally prosperous, there would evidently be a disfranchisement of all those who were not taxed unless they had performed military duty, or wrought on the roads. In the same manner householders and freeholders may be deprived of the right of suffrage, even although citizens, residents, and of full age. The rights of a citizen ought not to be held at the pleasure of others, but should be fixed and unchangeable. But in both these cases, if the assessors should not assess, the collector not receive, the militia not to be called out, or the road master neglect his duty, there would be a deprivation of the elective franchise. The labor of a day on the highway or the payment of a petty commutation, the attendance of a day at a military parade, or the payment of a tax, however meritorious in themselves, certainly do not furnish such high evidences

of public services in the agents, as to justify a monopoly of the elective franchise ; and such I am persuaded, is not the wish of that respectable portion of the community. I therefore submit to your consideration, whether the constitution ought not to be so modified, as to render citizenship, full age, and competent residence, the only requisite qualifications.

In thus improving our social institutions, it is pleasing to contemplate their benign influence on individual happiness and general prosperity ; and to feel assured that a republican government may be transmitted in full purity and vigor to the remotest period of time. Even the troubled democracies of Greece and Italy, with all their deprecated vices, were preferable to the hateful tyrannies that surrounded them. The former were sometimes relieved by ennobling virtues ; but the latter were always engulfed in hopeless debasement. Now that the representative system is well understood, and its capacity to unite liberty and power by federal combinations has been successfully tried, it will be our own fault if its duration prove not as permanent as its blessings are inestimable. In all governments, whether republican or monarchical, free or despotic, cupidity and ambition will address themselves to the sovereign authority for gratification. In free states, these applications will of course be made to the people who confer, either directly or indirectly, the honors and emoluments of office ; and hence the excitements which arise from the operation of these passions, as well as from real differences of opinion. But with all these evils, republics still exhibit a decided superiority. Their agitations and attendant mischiefs, are more diffused and more feeble ; and the people who fell their influence, have, generally speaking, no inducement to act wrong. It is their interest, as well as their duty, to select meritorious officers, and to establish a wholesome administration. The vices of faction, intrigue, falsehood, dissimulation, and corruption are rendered more intensely profligate by their concentration round the person of the monarch. His interest, and that of his favorites, too often becomes distinct from that of the community, and the general welfare is merged in personal gratifications. A republican government is certainly most congenial with the nature, most propitious to the welfare, and most conducive to the dignity, of our species. Man becomes degraded in proportion as he loses the right of self-government. Every effort ought, therefore, to be made to fortify our free institutions ; and the great bulwark of security is to be found in education ; the culture of the heart and the head ; the diffusion of knowledge, piety, and morality. A virtuous and enlightened man can never submit to degradation ; and a virtuous and enlightened people will never breathe in the atmosphere of slavery. Upon education we must therefore rely for the purity, the preservation, and the perpetuation of republican government. In this sacred cause, we cannot exercise too much liberality. It is identified with our best interests in this world, and with our best destinies in

the world to come. Much indeed has been done, and we have only to cast our eyes over the state and rejoice in the harvest which it has already yielded. But much more remains, and ought to be done ;—and the following statement is exhibited with a view to animate you to greater exertions.

The number of children taught in our common schools during the last year exceeds 400,000, and is probably more than one fourth of our whole population. Ten thousand three hundred and eighty-three have been instructed in the free and charity schools in the city of New-York, a number by no means proportioned to the wants of its population. The students in the incorporated academies amount to about 2,683, and in the colleges, to 755.

The fund for the common schools may be stated at upwards of 1,739,000 dollars, and its annual income at 98,000 dollars ; to which may be added the interest on the future sales of lands, and on the disposal of escheated property ; the proceeds of which latter item may be added to the capital.

However imposing this fund may appear, it is sufficiently obvious that it ought to be augmented. This state is capable of supporting fourteen millions of inhabitants. This appropriation will therefore soon be found far behind the progress of population, and the requisitions for instruction. Deeply impressed with the momentous nature of this department of our social policy to the cardinal interests of the state, I cannot withhold one important fact derived from past experience. Of the many thousands who have been instructed in our free schools in the city of New-York, there is not a solitary instance known of any one having been convicted of crimes. In furtherance of this invaluable system, I recommend to your consideration the education of competent teachers on the monitorial plan, its more general introduction, and the distribution of useful books.

While our primary schools cannot be too numerous, our highest seminaries ought to be very limited in number. The creation of a college imposes the duty of endowing it. We have now four colleges for literary and scientific instruction, and two for medical education. They are all under the superintendence of highly gifted and enlightened men, and are eminently entitled to your liberal patronage. But until the government shall see fit to augment the funds of existing institutions to the full extent of their wants, I am persuaded that there ought to be no increase ; and not even then, unless peremptorily required by the exigencies of education. Perhaps, indeed, in a case of so much importance, the authority of the regents of the university ought to be only recommendatory ; and the incorporating power exclusively vested in the legislature, as a more safe depository than a single body, as the source from whence munificent endowments must emanate, and as most conformable to the spirit, if not to the letter, of the constitution.

Our institutions for the promotion of knowledge, are numerous, useful, and deserving of liberal encouragement. In various cities and villages, societies for the cultivation of natural science and philosophy, of antiquarian and historical research, and of general knowledge, have been founded: and are calculated to develop our resources, to accumulate useful facts, and to advance the great interests of society. In the promotion of medical knowledge, so essential to the preservation of health and life, the colleges of physicians and surgeons have continued their career of distinguished usefulness. Some of the county medical societies are entitled to great praise for simultaneous efforts. For all these institutions, your fostering care is earnestly solicited.

Added to these, is the State Medical Society, which has been in beneficial operation for the last eighteen years, and which assembles every year at the seat of government, would be enabled by a small annual appropriation, to realize, to the most valuable extent, the high expectations which are so justly entertained of its disposition, and ability to extend the benefits of the healing art.

The great object of a good government is to secure the greatest happiness of the greatest number under its care. For this purpose, those arts and pursuits which minister to the sustenance and comfort of man, elevate his character, and excite his virtues and talents into activity, must be cherished with a solicitude proportioned to the importance of the end to be attained, and to the means of accomplishment. Four fifths of our population are cultivators of the soil: on agriculture we must depend as the main source of our welfare. Its natural connexion with manufactures, trade, commerce, navigation, and the useful arts, is well understood; and the united influence of these great departments of human industry constitutes the wealth, the power, and the prosperity of nations.

An act was passed in 1819 for the encouragement of agriculture, which will expire during the present session. This state possesses every physical advantage for a great system of agriculture—a fertile and various soil; little waste land; easy, cheap and rapid means of transportation; great markets at home and contiguity to the ocean, that opens to us the markets of the world. These are some of the features that strike us at the slightest glance. And must it not be admitted that agriculture, either as a science or an art, is far from being cultivated with that ardent and successful spirit due to its importance? The most profitable mode of preparing the soil; the most economical and fertilizing applications; the most expedient rotation of crops; the various kinds of grain, plants, fruits, and trees best adapted to our soil and climate; the domestic animals most productive of solid advantage; the best system of plantation to supply the consumption of timber and fuel;—all these and similar subjects open a field of enquiry and research of momentous interest, and demand the animating and invigorating encouragement of the state. We have an intercourse with every region of the globe, and can easily procure seed, plants, animals,

and labor-saving machines ; and we can hold such communion with the scientific associations of Europe connected with the various branches of husbandry, as will be productive of the most useful results.

The experiment instituted for the encouragement of agriculture, although but of short duration, labouring under much opposition, and conducted, in some cases, injudiciously, has been generally useful, and in some counties has been eminently successful. I submit therefore to you to determine, whether it would not be wise to continue this system under such modifications as you may deem advisable ; and I do this under a full persuasion that you will never overlook any measure conducive to the prosperity of so cardinal an interest, and connected with the honor of the state.

As horticulture is an important department of agriculture, I have great pleasure in informing you, that the incorporated Horticultural Society, established for some years in the city of New-York, has been productive of great good, by increasing and improving our fruit and esculent vegetables. Another association has also been formed, and these laudable institutions having recently established an union, I anticipate still greater benefits from their consolidated efforts. Founded upon the plan of the great Horticultural Society of London, and blending the contributions of experience with the researches of philosophy, they deserve the most liberal encouragement.

As it is one of the chief objects of a good government to cultivate the resources of a state, it becomes of primary importance to know with accuracy what constitutes those resources. The wisest states have pursued a defective policy in this respect, by neglecting to ascertain their own powers and faculties. Statistical surveys will easily accomplish this desirable object, let in a flood of light on the science of political philosophy, and open a wide field for the most useful practical operations. By the constitution, a census is to take place during the present year. Important statistical inquiries may be blended with this object, which will evolve many momentous facts, and diminish the labor and expense of the general survey. Periodical returns of marriages, births and deaths, would greatly enhance the value of this information.

The useful arts, connected as they are with the comforts and conveniences of life, deserve at all times the fostering care of government. In a community where labor is high and in constant demand—where the genius of the people is prolific in inventions of vast value, and where every new discovery that diminishes manual labor becomes of immediate consequence, it seems wise to hold forth such rewards as may stimulate ingenuity and indemnify expense. The national government, under existing laws, can do but little ; and even when letters patent are granted, their validity is frequently drawn into question, with all the expense and vexation of incidental litigation. Would it not be sound policy

to reward with liberality the authors of such inventions as produce a saving of labour in agriculture and mechanical pursuits, and improve the quality and augment the quantity of our products and fabrics? It is perceived with much satisfaction, that the encouragement already dispensed has had the most propitious influence, in every direction, on the advancement of household and domestic manufactures. Many articles of exquisite workmanship have been presented at our fairs and exhibitions, greatly creditable to those who furnished, and to those who encouraged them.

The Mechanic and Scientific Institution, of New-York, has been established for the purpose of diffusing the benefits of science throughout the various mechanical professions, by means of lectures, apparatus, models, books, and public exhibitions of works of ingenuity, skill and industry. The usefulness of this institution would be greatly enhanced by the erection of an edifice adequate for its purposes; and it is believed that an appropriate site may be concurrently granted by the state and the city of New-York, without inconvenience to either, from contiguous property in that city belonging to both, and now unoccupied. As this is the first organized school of the kind in the world, and is destined to increase the skill, and elevate the character, of our mechanic interest, by applying philosophy to the arts, and imparting the benefits of science to that most useful body of our fellow citizens, its claims upon the public bounty will not escape your favorable attention.

The Erie Canal (which is the longest in the world, and which, in conjunction with the Champlain Canal, and the contemplated communications with Lake Ontario and the minor lakes, will produce the most extensive and important inland navigation ever witnessed,) would have been finished last season, had it not been for the intervention of unexpected impediments. It is however so near to its completion, as to render it necessary to form a permanent system for the preservation of the canals, for the collection of the revenue, for the extinguishment of the debt, and for a vigilant superintendence both of their particular concerns and of their general interests. A plan ought to be adopted, combining economy with efficiency, and having regard to future as well as present operations. I consider these works as but the first in a series of great undertakings. We must, however, pursue our objects with prudence as well as with energy, in every stage of our progress, looking for support in the wisdom and patriotism of the people. And it is a source of high felicitation to know, that the debt may be speedily satisfied without resorting to taxation, without discontinuing our efforts for similar improvements, and without staying the dispensing hand of government in favor of the great departments of education, literature and science, or the cardinal interests of productive industry.

A board for the promotion of internal improvements, composed of well informed citizens, ought to be constituted, with authority to consider and report on all subjects relative to the establishment of communications by land and water, by roads, railways, canals, bridges, and water courses, and with a general superintending power over their construction. All applications and proposals on such subjects, would of course receive the full consideration of the board, before they were accepted by the legislature ; and would be carried into execution in accordance with the exigency of the case, the importance of the object, and the ability of the state. The field of operation is immense, and the harvest of honor and profit is unbounded : and if our resources are wisely applied and forcibly directed, all proper demands for important avenues of communication, may be answered in due time, and in ample extent.

The primary design of our artificial navigation, is to open a route by canals between the Atlantic ocean and the great lakes. The Erie and Champlain canals will, in a great measure, accomplish this object ; but it will not be fully realized until the waters of lake Ontario shall be connected with the Erie canal and with lake Champlain. The importance of this design will be duly appreciated, when it is understood that the lake coast, not only of this state but of the United States, is more extensive than the sea coast.

The next leading object, is to unite the minor lakes and the secondary rivers with the canals ; to form a junction between important rivers ; and to produce such a connection between the bays on the sea coast, as will ensure the safety of our boat navigation in time of peace against the tempests of the ocean, and in time of war against the depredations of an enemy.

A canal between the St Lawrence river and lake Champlain would be attended with important benefits, by opening a valuable market within our own territory, and by affording an equivalent for the privation of a free use of that river. Duties have been imposed on our productions sent to Canada ; and it is believed that the British government have declined a negotiation respecting the free navigation of the St. Lawrence. That we have, by the law of nations, a right of free transit to the ocean through that river, I entertain no doubt ; and I am inclined to believe that we are entitled to an entrepot, or place of safe deposit for our commodities destined to the ocean through that channel.

Although these points are not properly within the sphere of our deliberations, yet they ought to be known, because they affect the rights and interests of our fellow-citizens ; and in knowing them, we may apply for redress to the constitutional organ. How far it may be advisable for the United States, in case a satisfactory arrangement cannot be made, to impose countervailing duties on the products of Canada, on their transit through our territory down the St. Lawrence, is a subject on which the national government will undoubtedly bestow wise consideration.

The contemplated canal between that river and lake Champlain, would relieve the northern inhabitants of this state from the embarrassments of a foreign market. A survey of this route has recently been made, under the authority of the state, and the only formidable impediment is an intervening elevation of upwards of nine hundred feet. This may perhaps be surmounted by locks or inclined planes, and there is said to be an abundance of water on the summit level. Where this ridge passes into the British dominions, there is an abrupt descent, and the level country below presents an easy passage for a canal. Perhaps an adequate portion of this territory may be obtained by negotiation, either by conceding our alleged exclusive right on a certain part of the St. Lawrence, or by making some arrangements in relation to the disputed territory in the north-east angle of the United States. But at all events, and under any circumstances, a communication between the Erie canal and lake Ontario, by the way of Oswego, ought to receive your decided countenance, and to be made as soon as practicable. It will greatly augment our revenue, and open profitable markets to our industrious and enterprising citizens residing within the reach of that lake and its tributary waters. The provision heretofore made in this respect, is neither adequate as to funds nor as to prompt execution.

To unite, in the most accommodating manner, the waters of the Seneca, Cayuga and Canandaigua lakes, and such of the secondary lakes as may be deemed expedient, with the Erie canal, is also an object of great importance. A connexion too is desirable between the Delaware and the Hudson ; between the upper waters of the Allegany, Susquehannah and Genesee rivers ; between the Erie canal and the Susquehannah, along the valley of the Chenango river ; between the Susquehannah and the Seneca lake ; between the Erie canal at Buffalo and the Allegany river, at its confluence with Conewango creek ; between Black river and the Erie canal ; and between Gravesend Bay, Jamaica Bay, Great South Bay and Southampton Bay, and across Canoe Place to Southold Bay on Long-Island. Other eligible communications might be indicated, but these are sufficient to evince the expediency of constituting a board with general powers in relation to internal improvements.

All these works must emanate from the authority of the state ; but many of them will doubtless be undertaken without any demand on the treasury, in consequence of encouraging grants. Of this nature is the connexion proposed to be made by a company between the Delaware and Hudson—a project highly deserving of public countenance. The canal on the south side of Long-Island would perhaps be constructed under a similar grant. Considering that these sections of the state are necessarily excluded from an immediate participation in the benefits of the canals already made, I derive a peculiar gratification from the liberality manifested by the le-

gislature in the one case, and shall be happy to see it extended to the other.

The proposed connexion between the Seneca lake and the Chemung or Tioga branch of the Susquehannah, will not exceed twenty miles ; and that lake is open for navigation during the whole year. This canal will open our salt and gypsum to the extensive region connected with the Susquehannah, and a numerous body of our citizens will find a market for their productions in Philadelphia and Baltimore, as well as in New-York. This multiplication of markets will be beneficial to the agricultural interest ; is in consonance with the dictates of sound policy, and can only be opposed by sectional and monopolizing views. In addition to this, it may be stated, that there is an inexhaustible quantity of bituminous coal on the head waters of the Tioga river, which is now sold at the mines for two cents per bushel, and which can be transported on flats to Newtown in Tioga county. It is represented to be of a superior quality, and similar to the Liverpool coal of commerce—and it is supposed to occupy the extensive region from Wheeling to that part of the state near the head of the Seneca lake : And should the proposed communication be made, it may be transported to Albany by water.

Some canals will undoubtedly be accomplished by individual enterprise ; some will require partial assistance, and others must depend entirely on public munificence : But all can, with proper exertion, be executed in due time, and in accordance with the growth of the state, the exigencies of society, and the inevitable evolution of our resources.

The Erie canal, besides completion at its western termination, will require in time some important additions. These will consist in double locks and towing paths, to accelerate the passage of the boats. When new bridges shall be required, a much greater elevation ought to be given to the road bridges, and the farm bridges ought to be formed on a retractile plan.

The Champlain canal enters the Hudson at Fort Edward, and the navigation is continued for several miles down that river. The comparative advantages of natural and artificial navigation, are thus fairly tested and fully contrasted ; and the delay, expense and vexation of the former channel of conveyance, are found so harassing, that it has become essential to substitute a canal ; and initiatory proceedings have been had for that purpose under the sanction of the legislature, which will, I trust, be consummated immediately. The Champlain canal opens a vast expanse for inland trade and public accommodation. Its revenue, when compared with that of the Erie canal, will be at least in the ratio of its extent. The region which borders on lake Champlain abounds with rich iron ore, convertible into the best iron, which with excellent steel, is now manufactured successfully by enterprising individuals. Calcareous substances of all and the best kinds, from marble to building stone, lumber, the products of the dairy, of the soil and of

manufactures, are also in great plenty ; in return for which that region has occasion for salt, gypsum and various commercial accommodations.

It is also necessary that prompt and effectual provision be made, to remedy the embarrassments attending sloop navigation on the upper parts of the Hudson. Different plans have been proposed for the attainment of this important object ; and among others, the improvement of the natural navigation, by removing the present obstructions, by joining different islands, and increasing the velocity of the current. It is now in a great measure ascertained to be most profitable, to make transhipments from canal boats to river vessels. The importance of this measure is, therefore, identified with the well being of our artificial, as well as of our natural navigation. And I am persuaded that you will not shrink from these operations on account of the presumed expense. In all judicious undertakings of this kind, faithfully conducted, there will be an excess of benefit. Money applied at home in useful improvements, is to be regarded as an instrument of circulation, not a privation of wealth, nor an extinguishment of capital.

When private property is appropriated to public uses the compensation to the owner ought to be prompt and ample. There is reason to apprehend that this has not been done in many cases connected with the canals, and that great complaints have been made, and considerable losses sustained in consequence of such omission. As the law now stands, appraisements for such appropriations must be made by two of the acting canal commissioners. If the supreme court should set any aside as they are authorised to do, on just and equitable principles, it seems reasonable and proper that the new assessments under these circumstances, should be submitted to a tribunal which had not passed upon the question. I recommend the whole of this subject to your early attention.

The debt due on account of the canals, and the subsidiary works, is \$7,467,770 99, of which \$4,524,270 99, bear interest of five per cent. and the residue an interest of six per cent. making an aggregate annual interest of \$375,823 55. The revenue from the tolls the present year, will exceed \$310,000—and the duties on salt \$100,000, which with the other sources of income belonging to the canal fund, will, in all probability, produce an excess of revenue above the interest of the canal debt, of near \$300,000,—Should any discrepancy appear between this statement and the annual report of the comptroller, it will be only apparent, his having reference to the fiscal, and this to the natural year.

It is believed that next year the revenue will be nearly doubled, if the Erie canal arrives to the lake in due season, and its progressive expansion will be commensurate with the prosperity of the state, and the growth of our country. From these data, a just estimate may be made of the rapid operation of a judicious sinking

fund in extinguishing the whole debt, and of the prospective fiscal resources of the state.

It is estimated that 10,000 boats have passed at the junction of the Erie and Champlain canals within the last season. Boats with commodities proceed at the rate of 55 miles in 24 hours : and boats with passengers near 100 miles in the same time. As late as the 15th of December, a boat laden with merchandise arrived at Utica from Albany.

Internal trade is most flourishing when its profits are small, and its returns quick. And this desirable effect is produced by the brisk circulation of commodities through canals. An important recommendation of this communication is the facility which it affords to emigration and change of habitation ; its conveyance of bulky articles which are forbidden to land transportation ; the cheapness, safety, and certainty of travelling, and its consequent increase. Hence, the promotion of rapid settlement and concentrated population. All these propitious circumstances go to establish the permanency and magnitude of the income to be derived from our canals, and to demonstrate the superior profit of judicious investments in them. The advantages of a condensed over a scattered population, proceed from furnishing great markets for sale and purchase ; from extending the operations of ingenuity and skill ; from expanding the sphere of employment by subdividing the exertions, and augmenting the productive power of labor, and by concentrating great capitals subservient to all the purposes of life. In producing extensive markets, in communicating the benefits of a dense to a spare population, and in destroying the inconveniences of distance, canals may be emphatically designated as the great labor-saving machines of internal commerce.

For almost all useful purposes, the City of Detroit will, on the completion of the Erie Canal, be brought within a hundred miles of the city of Albany. Already have we witnessed the creative power of these communications, in the flourishing villages which have sprung up or been extended ; in the increase of our towns ; and, above all, in the prosperity of the city of New-York. If, as is said, upwards of three thousand houses have been built in that city during the last year, it is highly probable that in fifteen years its population will be doubled, and that in less than thirty years it will be the third city in point of numbers in the civilized world, and the second, if not the first, in commerce. Nor is there any danger of a reaction. After cities reach a certain elevation of opulence and prosperity, they appear to possess a self-multiplying, self augmenting power. But independently of this consideration, the external as well as the internal causes of the opulence and extent of New-York will continue in full operation, and with additional power, and in proportion as its supplies increase, it will furnish augmented means of consumption at home, and of attraction to customers from abroad. How emphatically then does it behove us, in the contemplation and enjoyment of these abun-

navigation. If so, and that right being derived from a law of congress, it will be contended that it cannot be prohibited nor controlled by any state law ; the right to be complete, must be enjoyed without restraint. The state cannot demand a toll, as the price of the enjoyment of such a right, if it has not the power to prohibit such enjoyment altogether.

It may be further remarked, that the power to regulate commerce, among the states, under which the act regulating the coasting trade was passed, is held, by that high tribunal, to be exclusively in congress—If so, and if that act, or any other act, which congress may pass, under that power, can be applied to the canals, it would follow, as a consequence, that our laws imposing tolls, are void from the beginning. The state has no power to adopt them ; and in this view of the subject, it would seem to be immaterial whether any license be taken out under the act of congress.

The supreme court has **also** declared, that the power to regulate commerce includes a power to regulate navigation, as one means of carrying on commerce. The same remark may be made, with equal force, concerning any kind of transportation, whether by land or water, the power to regulate commerce applying to the one as well as to the other. If congress can declare, that a boat passing between different parts of the same district, within the same state, shall take a license, why can it not direct that a wagon shall take one, under similar circumstances ? When we shall have arrived at this point, we shall begin to have some adequate notion of the extent to which this claim may be carried.

I shall say no more on this subject at this time. I will not entertain a doubt but that the national government will command the abandonment of a claim so unfounded and pernicious ; and I am persuaded that it has been preferred without due reflection, and without instructions from superior authority. But if this course shall not be pursued, it will then be your duty to take that stand which the rights and safety of the people imperiously demand.

The considerations which grow out of this occasion, and the complaints which have been made in different states about alleged encroachments of the national government on their constitutional powers, point to the most formidable dangers that can menace the stability of the union and the welfare of our country. Without a general government, we shall neither have union at home nor respect abroad. We shall be arrayed into separate confederacies, or exist as insulated states, maintaining large standing armies, wasting our resources in intestine wars, the dupes of foreign intrigue, and the victims of civil discord. Without state authorities, there can be no civil liberty and no good government ; for it is utterly impossible that so extensive a country can be bound together, unless as a confederation or a military despotism. Every true friend of America will strive to maintain these respective authorities in full purity and vigor, without detracting from the

powers of the one to add to those of the other, nor extending the faculties of either beyond their legitimate dimensions. Each possesses a portion of the delegated authority of the people, and each is supreme within the sphere of its constitutional powers. The apprehensions entertained by some of our distinguished statesmen at the formation of the national constitution, have entirely failed ; and instead of the predominance of a controlling power in the states, the centripetal force of the general government has had perhaps too great a preponderance. The offices of the latter exceed those of the former, in rank, power, number and emolument : its patronage is commensurate with its superior resources ; and it touches, in its relations and ramifications, every chord of ambition ; presents the most spacious theatre for the display of great talents, and for the gratification of lofty aspirations. It also possesses a decided advantage over the state governments in the arrangement of its judicial authority. In all controversies relative to the due exercise of their powers, this department of the national government is a tribunal of dernier resort, without any amenability to the people or the states, with a compensation that cannot be diminished, under a tenure that will endure for life, and with no other responsibility than liability to impeachment for high crimes and misdemeanors, under which any decisions, however erroneous, can never be classed, because an error of judgment can never be adjudged a crime.

Natural justice prescribes that no man should be a judge in his own cause, and that between contending sovereignties neither should pronounce the law of the case. A new tribunal ought to be constituted, to decide upon the powers of the national and state governments, and to keep them within legitimate boundaries. I know of none that can be formed with a character so imposing, with a responsibility so imperative, and with a position so dignified, as the senate of the United States. Composed of the most distinguished and talented men of the several states, its decisions would be formed with integrity and ability, and received with respectful acquiescence. As a co-ordinate branch of congress, and as a component part of the executive power, it would be a safe guardian of the just authority of the national government ; and as a representation of the states with a periodical change of members, it would be their natural and efficient protector against unconstitutional invasions. In these suggestions, I have not the most distant intention of violating the habitual respect which I entertain for the supreme judiciary of the union.

A judicious policy will dispense, as far as possible, an equal participation of the benefits of cheap and rapid communication. Those regions which are more distant from our navigable establishments ought to enjoy equivalent facilities by roads and bridges. The southern tier of counties, commencing with Chautauque, and extending eastward, come generally under this description. In all cases of this kind, roads ought to be made from the interior coun-

try to the market towns on the Hudson and other navigable waters ; to the canals ; to the parallel and great lakes ; and to all other places where the conveniences of transportation are effected. It is of great consequence to construct a state road from some point of the Hudson river to the head of the Cayuga lake, nearly central between the line of the Erie canal on the one side, and the Pennsylvania line on the other. Such an avenue, of requisite solidity, of adequate width, and smooth and even surface, would afford great and valuable facilities. The distance would be about 150 miles, and each end of the road would furnish good markets to an important region of the state, now remote and in a great degree sequestered. Whenever this is the case, trade is in some degree managed by barter or exchange, as a substitute for circulating medium. The impositions and errors that necessarily result from negotiations transacted without a certain standard of value, are injurious to morals and social harmony. It ought not to be forgotten, that during four months of the year, when our navigation is obstructed by ice, it is peculiarly requisite that our highways should be maintained in good condition.

A report on the Cayuga marshes will be made to you by one of our most able civil engineers. And if it should prove favourable to the practicability of the contemplated enterprise, the obvious utility will be recognized in promoting the public health, and in reclaiming a considerable portion of our most fertile lands, now unfit for cultivation.

I beg leave to call your attention to our salt works in Onondaga county. By proper regulation and management, the whole country may be supplied with this indispensable article, at the cheapest rate ; and a revenue of half a million of dollars may, in a few years, accrue to the state. A board of commissioners, instituted to make the necessary investigations, and to recommend the most eligible system, is a measure well worthy of your attention.

The erection of wharves, and other accommodations for trade, on our navigable lakes, will be promoted by investing the commissioners of the land-office with the like powers in this case as in that of grants under the waters of navigable rivers to the proprietors of the adjacent lands.

I intended to submit to you some observations on our penitentiary system ; but I understand that a board composed of intelligent men, have been charged by the legislature to consider this subject, and that their report will in due time be presented to you. I shall therefore only say, that a classification of offenders, separate dormitories, solitary confinement and steady labor, are essential to the success of the system, and that it may be so administered as to afford the means of its own support, without any expense to the state. Whenever the pardoning power has been extended too far, whether in consequence of recommendation proceeding from the most benevolent feelings in some instances, or from the crowded state of the prisons, the usefulness of the penitentiary system has

been impaired. It is your duty to provide the means for executing the laws, and it is my duty to see them executed. And I shall certainly exercise the prerogative of mercy, with a view only to the legitimate objects of punishment, the reformation of offenders, and the prevention of crimes.

A house of refuge, for the reformation of juvenile delinquents, has been established by a benevolent association in the city of New-York. Its objects are to rescue them from destruction by disciplining them in virtuous and industrious habits ; and a full statement of the views and concerns of this excellent institution, will, in due season, be made known to you. Of a kin to this establishment, and with a preventive as well as remedial tendency, is the Orphan Asylum in that city, under the auspices of females of distinguished benevolence. It takes under its protection children who have been left in an orphan-state, and trains them up in the paths of virtue and usefulness. The Lunatic Asylum has participated largely in the bounty of the state, is well managed, and may be justly classed among our most important charities. Another unfortunate description of human beings, the deaf and dumb, are committed to the instruction of a laudable institution, incorporated in the city of New-York, which will apply to you for a renewal and modification of the statute passed in 1822, to promote the education of the indigent deaf and dumb within this state. That act provides for four pupils from each senatorial district, and authorises their support from the state treasury. Twenty-seven are now in the school as state pupils ; but there are between thirty and forty applicants who cannot be received from districts that have the prescribed complement, and vacant districts cannot be filled from other districts. It is desirable to augment the number to six from each district, and to allow vacancies to be supplied from other districts when there are no applicants. A society for the same purpose, denominated the Central, was incorporated in 1823, and established in Canajoharie. Of its condition, I have no specific information. When the census is taken, it will be useful to have an enumeration of the deaf and dumb, designating sexes, ages, and circumstances. Information of their ages is desirable, because the only docile objects are those between ten and twenty-five years of age ; and a knowledge of their means of support is necessary, in order to ascertain the needful extent of public charity. This has, I believe, been done in some states. In Ohio, the number was found to be 428.

An enumeration of insane persons should also be taken, arranging them under the heads of criminals, paupers, and in good circumstances. The criminal lunatics in Great Britain are composed of those who are committed under the statute against disorderly persons, and of another class, for which I believe, no provision has been made in our code ; and which ought to be attended to. If on the trial of a person, charged with treason, murder or felony, in that country, a defence of insanity is set up, and if the jury

acquit the prisoner on that ground, the court may, notwithstanding, continue him in confinement.

Too much praise cannot be ascribed to the founders and patrons of these and other useful charities. If there be vices, which inflict their own punishment, there are also virtues which dispense their own reward, and receive the veneration of the present age, the benediction of posterity, and the smiles of approving Heaven.

Judging from the reports of the Adjutant-General and Commissary General, made at the last session, I have reason to believe that the state of our militia and arsenals is flourishing. The importance of these objects entitles them to cordial and vigilant cultivation. A respectable portion of our fellow-citizens, recommended to our favorable notice by their virtuous lives, exemplary habits of industry and zealous co-operation in all benevolent undertakings, are conscientiously opposed to bearing arms, and to the payment of fines imposed for non-attendance in the militia. A complete relief can only be effected by the interposition of Congress, or by an alteration of the constitution; and that it ought to be granted, I entertain no doubt. A sufficient equivalent is already rendered to the state, by the exclusive support of their own poor, besides their full participation in the maintenance of the poor in general. In this enlightened age, when the rights of man are fully understood and practically asserted, it is surely not compatible with the tolerant and liberal spirit of the times, to wound the consciences of our unoffending fellow men. At all events it lies in your power to guard against abuses in the penal inflictions, which it is believed, have in some instances, been carried to oppressive lengths.

During your session, you will be called upon to elect a senator of the United States. I need not enforce the considerations which will naturally occur to you on this interesting occasion, nor urge the expediency of selecting a person of great experience in public affairs, of approved capacity, of unquestionable fidelity and of distinguished public services. Such a representative is alone worthy of the state, and is required by the interests of the union.

The reception of General La Fayette, has been equally honorable to him and to the nation. It has illustrated the good feelings of the people, rescued free governments from the standing reproach and inculcated a great moral lesson on the world. The merits of this illustrious man are embodied in the leading events of his well spent life, and recorded in the faithful pages of history. Although one of the privileged orders of France, he embarked his fortune, his character, and his life in the cause of our republic, and in the very crisis of its fate. During the revolutions which have subsequently agitated Europe, he has been uniformly the intrepid, the faithful friend of freedom, neither turning to the right nor to the left, but marching onward in the great cause of princi-

ple, defying the denunciations of jacobins, and encountering the frowns of tyrants.

During his short residence, in this state, he was received by our chief magistrate, by our municipal authorities, and by the great body of the people, with distinguished respect. His old companions in arms, the war-worn soldiers of the revolution, and the venerable patriots of the times that tried men's souls, gathered around their friend, and the generations that had sprung up in his absence hailed him, as the champion of liberty and the benefactor of the human race. It remains for the legislature to unite in the general voice, and to adopt measures suitable to the occasion, and worthy of the state. The recent demonstrations of national gratitude reflect honor on the source, and render justice to the object, and are cheering to the hearts of the American people.

The most friendly feelings, I have reason to believe, exist between this state and the other members of the confederacy, which I hope will ever prevail, to the utter exclusion of sectional jealousies and geographical prejudices. Our controversies about jurisdiction and territory have been definitively settled with all, except the state of New-Jersey ; and seeing no reason why an amicable adjustment, on the most honorable terms, should not be effected, I earnestly recommend that provision be made for that purpose, in accordance with the law passed by that patriotic state, which I shall cause to be laid before you.

The protection of our great commercial emporium from pestilential diseases is essential to the general welfare. I sincerely hope that the prejudices which have sometimes arrayed in contention with each other, country and city interests, will be forever dismissed as unworthy of the good sense and good feelings of the community, and that the prosperity of each will be considered the prosperity of both. Our quarantine laws ought to be executed with vigilance and energy, and such improvements adopted as will effectually guard against danger from abroad : for on any theory that has been suggested, a precautionary system is necessary, whether malignant or yellow fever is propagated by specific contagion, or introduced by the deleterious state of vessels and cargoes.

The police of the city of New-York is excellent in relation to crimes, but in reference to health it has no distinguished merit. Without good water there cannot be good health ; and no effectual provision has been made for that object. It may be laid down as an incontrovertible truth, that no dense population can furnish from within its own limits, an adequate supply of this indispensable accommodation, with reference to quality and quantity. As there is nothing to prevent your favorable interposition, I trust that you will dispense it with a liberal hand to all laudable attempts, whether by the local government, by private associations, or by enterprising individuals, to furnish a sufficiency not only for all do-

mestic purposes, but for public baths, for cleansing the streets, and for the general purification of the city.

An annual law is generally passed, authorising certain aliens, by name, to take, hold, and dispose of real estate, in like manner as natural-born citizens. Such a provision is proper, and operates as an encouragement to wholesome emigration. But may not this object be more effectually and comprehensively attained by passing a general law, empowering, under certain restrictions, resident aliens to enjoy similar privileges.

Our legal rate of interest for money was established at a remote period, and is one per cent. higher than in some of the most flourishing states. Your attention to a suitable reduction, may be of great benefit to the public.

The mercantile interest is greatly aggrieved by the law relative to merchants and factors, or agents, as recognized in England, transferred to this country, and incorporated in our judicial decisions. The parent case on this subject was laid down by Lord Chief Justice Lee, in 1742, and may be found under the head of *Paterson vs. Tash*, in the second volume of *Strange's Reports*. Although the facts of the case do not appear, and the adjudication itself is exhibited in a suspicious shape, yet it has been implicitly and servilely adopted; and it is now considered as settled law, that if a factor pledges the goods of his principal, the person who has advanced money upon them, in ignorance of his being a factor, cannot hold the goods as a security for his advances. And another rule equally exceptionable has been established, namely, that the factor cannot bind his principal in cases in which the bona fide purchaser can have no means of discovering the extent of his authority, or the fact of his not being a principal. This law is different from that of France, Russia, Austria, Spain, the Hanse towns, Holland, and indeed of almost all Europe; and is found to be so pernicious in its operations in Great Britain, that a bill has passed the house of commons, and will probably become a law, conformable to the general sense of commercial countries. In mercantile arrangements, it frequently occurs that there are several advances made between the shipment and sale of commodities—by the foreign shipper or consigner to the foreign proprietor—by the consignee to the consigner, who is himself a factor—and by some of the capitalists to the factor, in consequence of a difficulty in finding a ready and advantageous sale. All these arrangements for the convenience of commerce are impeded, jeopardized, and frequently frustrated by the existing law; and our merchants are now placed in a most peculiar position. Laws operating injuriously on individuals and on commerce, and founded solely on British precedents, continue in force with us; while Great Britain has found the same laws so inconvenient and unwise, that her parliament has passed one statute, and is about to pass another, for correcting the evil.

Our highest tribunals in the cases of mortgages and judgments are of similar origin, and require a more close supervision in the courts of justice and the interests of society. Why should there not be a pre-arranged dispensation of payments of all bona fide creditors, without reference to the merits of their judgments, as now recognized? And might not summary trials be adopted to enforce the payment of judgments on default, and to sanction the process of writs, without encountering the expense and delay, which are now just subjects of complaint? Indeed, the whole system of our jurisprudence requires radical re-arrangement and correction. A complete code founded on the summary principles of the common law, adapted to the interests of commerce and the useful arts, the state of society and the nature of our government, and embracing those improvements which are suggested by enlightened experience, would be a great blessing. It would free our laws from uncertainty, elevate their character to a higher position, and thereby destroy judicial legislation, which is fundamentally at war with the genius of representative government.

It is an abuse not worth dwelling on a subject of a delicate nature, but which is a very important one. I cannot, consistently with my sense of duty, pass it over in silence. The mixture of incongruous subjects in the same bill, has always been considered an unsound mode of legislation. Every provision ought to stand on its own merits, and it should consequently be unconnected with irrelevant matter. On the last reading the final question is taken on the whole bill. When composed of various matters, it may be improperly forced into a law by the variety and extension of the interests which it propitiates. At one time this mode of heterogeneous legislation was carried so far that the council of revision, during the administration of my venerable relation, objected to a bill on that account. The practice was partially discontinued for a time; but it has since been pursued in a bill necessary to be passed at the close of every session, called a supply bill, and which sometimes contains provisions entirely misplaced.

But this procedure is not so pernicious as a novel practice, which has been introduced since the adoption of the present constitution, in relation to certain bills which cannot become laws without the sanction of two-thirds of each branch of the legislature. It was formerly laid down as a sound rule of legislation, that after a bill was rejected, it should not be re-introduced the same session; and that after one reconsideration, a proposition should be viewed as at its termination. The object of these regulations was, to guard against an unnecessary waste of time, to promote economy, and to prevent the introduction of practices incompatible with purity and good order, and injurious to the harmony of the legislature.—What is well considered, does not require frequent reconsideration. The fair object of the latter is, to introduce new light, and to present impressive facts and considerations, which had not been suggested, or known in due season.

For the two last sessions of the legislature, if I am rightly informed, it has been customary, after the rejection of a bill, on the third reading, for the want of the requisite two-thirds of the members to vote for, and obtain, frequent re-considerations. By this means, a number of bills of the same kind, are accumulated for passing, and the object for which a re-consideration is granted, is thus defeated. The end, in such case, is to obtain a favorable decision, by the force of combination. A number of bills are brought up at one time, contending for priority; but after the order of precedence is arranged, the pioneer bill, if successful, opens a passage for its associates, and they follow triumphantly in its train—if unsuccessful, they are postponed to a more favorable opportunity. Is it too much to say, that dangerous precedents have been established? That bills have passed by the force of their associations, not by their merits? And that public confidence is shaken in the purity of such proceedings. After this exposition, it is due to the respect which I entertain for your integrity, patriotism and intelligence, to express my conviction, that you will discourage practices so injurious to just legislation, and so derogatory from the public welfare.

Having already trespassed on your time, I shall reserve for future communication, such other subjects as may be deemed worthy of your consideration.

The causes which led to our divisions and distractions, no longer predominate. We are emancipated from the thralldom of a system of patronage, which formed a component part of our former constitution, and whose direct tendency and inevitable operations were to agitate the community with incessant convulsions; to make personal gratification the standard of political orthodoxy; to render the state the victim of political machinations at home and from abroad; and to convert the very favors conferred by its bounty into the instruments of its vassalage and degradation. With a full view of these evils, I recommended at an early period a different arrangement of the appointing power. The patronage once vested in a council of appointment is now diffused; and political power, which under the former order of things was in many respects concentrated in petty aristocracies, and wielded by factious combinations, has been in a great measure restored to its authentic source, the great body of the people. That abolition, and that restoration, have dissolved the union between personal interest and political subserviency. The people, rising in the majesty of their power, above the debasing trammels of names, and the obnoxious dictations of combinations, have sustained and vindicated a system of disenthralled and independent suffrage; and the auspicious influence of this magnanimous course will be witnessed in the independence and purity of the elective franchise, in the talents and integrity of our legislative assemblies, and in the correspondent estimation of the state with our sister republics, and in the councils of the union.

We possess a territory of great extent ; a soil of inexhaustible fertility, a climate of undoubted salubrity ; subterranean wealth almost boundless ; incalculable extent of manufacturing power ; positions for prosperous commerce, unsurpassed upon the globe ; vast public property in lands, stocks and canals ; a flourishing treasury, a prospective and certain revenue of millions ; a system of laws under which the rights of persons and property are secured, and still susceptible of great improvements ; and above all, may we not say without arrogance and without flattery, that our population is religious, moral, industrious, intelligent, enterprising and high spirited, profoundly conscious of its rights, its duties and its blessings ; with the principles and feelings of freedom engrafted into its moral and physical being ? Enjoying as we do, these transcendent blessings, it remains for ourselves to determine whether we are worthy of the career which the Author of all good has opened to us, whether we have wisdom and virtue enough to become what he has given us the means, and indicated as his wish that we should become, a main pillar in the great and glorious fabric of freedom and social happiness, reared by the valor, established by the wisdom, and cemented by the blood of our fathers, blessing as we are blessed, and ministering as we are ministered unto ; or whether we are to prove recreant to these elevated and imperative duties, and by wasting our strength and sullyng our character in petty cabals, intrigues and local agitations, commencing in folly and terminating in disgrace, we cast away the rich bounties of heaven, undermine our own prosperity, and retard the establishment of principles associated with the exalted destinies of freedom, and identified with the primary interests of the human race..

DE WITT CLINTON.

Albany, 4th January, 1825.







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